

1 HB5
2 163982-1
3 By Representatives Chesteen, Lee, Clouse, Moore (B), Brown and
4 Patterson
5 RFD: Education Policy
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8 SYNOPSIS: Under existing law, the Flexible School
9 Calendar Act of 2012 requires each local board of
10 education to establish an academic school calendar,
11 beginning with the 2012-2013 school year and ending
12 with the last day of the third month of the
13 2013-2014 school year, with the first day of
14 instruction for students no earlier than the Monday
15 two calendar weeks before Labor Day, unless August
16 31 is a Monday, then on Monday, August 17, and the
17 last day of instruction for students shall be no
18 later than the Friday immediately before Memorial
19 Day.

20 This bill would remove the temporary
21 academic school calendar parameters provided for
22 the 2013-2014 school year and would allow each
23 local board of education to provide the required
24 180 full instructional days based on an hourly
25 equivalent of no less than 1080 instructional
26 hours.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

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26 To amend Section 16-13-231, Code of Alabama 1975,
27 the Flexible School Calendar Act of 2012; to remove the

1 temporary academic school calendar parameters provided for the
2 2013-2014 school year; to allow each local board of education
3 to provide the required 180 full instructional days based on
4 an hourly equivalent of no less than 1080 instructional hours;
5 and in connection therewith to have as its purpose or effect
6 the requirement of a new or increased expenditure of local
7 funds; and in connection therewith would have as its purpose
8 or effect the requirement of a new or increased expenditure of
9 local funds within the meaning of Amendment 621 of the
10 Constitution of Alabama of 1901, now appearing as Section
11 111.05 of the Official Recompilation of the Constitution of
12 Alabama of 1901, as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 16-13-231 of the Code of Alabama
15 1975, is amended to read as follows:

16 "§16-13-231.

17 "(a) In addition to all other appropriations and
18 apportionments of public school money now provided by law and
19 made available for public schools there shall be apportioned
20 and paid to local boards of education from the Foundation
21 Program Fund, the amounts to be determined as hereinafter
22 provided and in accordance with regulations of the State Board
23 of Education. This Foundation Program Fund shall be used
24 principally:

25 "(1) To aid in providing at least a 180 full
26 instructional day minimum school term, or the hourly

1 equivalent thereof, except as otherwise provided in paragraph
2 c. of subdivision (1) of subsection (b); and,

3 "(2) To assist in the promotion of educational
4 opportunity for all children in the public schools.

5 "(b) The following requirements and procedures,
6 supplemented when necessary by regulations of the State Board
7 of Education, shall govern the apportionment of the fund:

8 "(1) REQUIREMENTS FOR PARTICIPATING IN FUND. In
9 order for a local board of education to share in the
10 apportionment of the Foundation Program Fund and to receive
11 the maximum benefits therefrom, the board shall meet the
12 following conditions:

13 "a. The appropriate local governing body must insure
14 that the local board of education within its jurisdiction is
15 receiving an amount of local tax receipts equivalent to ten
16 mills of school tax as computed from the most current assessed
17 valuation of property which comprises the school tax district
18 or districts of the local board of education. The State
19 Superintendent of Education shall determine compliance with
20 this provision of the law in accordance with rules or
21 procedures adopted by the State Board of Education. In
22 determining compliance for a county board of education, tax
23 revenues provided to the county board of education from the
24 county, from whatever tax source derived, shall be considered.
25 In determining compliance for a city board of education, tax
26 revenues provided to the city board of education by the county

1 and the city, from whatever tax source derived, shall be
2 considered.

3 "b. In the expenditure of all funds available for
4 the Foundation Program as herein defined, the local board of
5 education shall as nearly as practicable provide the same
6 length of term in all schools.

7 "c.1. ~~Except as otherwise provided in this~~
8 ~~paragraph, the~~ The local board of education shall provide a
9 school term of at least 180 full instructional days, or the
10 hourly equivalent ~~thereof, beginning with school year~~
11 ~~2012-2013 and ending with the last day of the third month of~~
12 ~~the 2013-2014 school year, or such part of that school term as~~
13 ~~can be maintained by using funds available and as defined by~~
14 ~~regulations of the State Board of Education~~ of no less than
15 1080 instructional hours. The local academic school calendar
16 shall be annually established by the local board of education,
17 within the parameters of subparagraph 3. In case the local
18 board of education fails to operate any schools the minimum
19 180 full instructional day term, or the hourly equivalent
20 thereof, or the minimum term as defined by the State Board of
21 Education, the Foundation Program allowances of the local
22 board of education shall be computed only for the actual
23 period the schools are in session that school year.

24 "2. In extreme circumstances involving natural
25 occurrences, health-related occurrences, or other extenuating
26 circumstances that result in the cancellation of an
27 instructional day, a local board of education may submit a

1 plan for the approval of the State Superintendent of Education
2 to replace cancelled instructional days by adjusting the
3 school calendar to extend the hours of actual teaching time on
4 specified instructional days. At any time the Governor
5 declares a state of emergency for any part of the state, any
6 affected school system that is closed as a result and loses
7 student days or employee days, or both, may appeal to the
8 State Superintendent of Education for relief in fulfilling the
9 local school calendar with respect to student days or employee
10 days, or both, with no loss of income to employees.

11 "3. ~~Beginning with the 2012-2013 school year and~~
12 ~~ending with the last day of the third month of the 2013-2014~~
13 ~~school year, a~~ The local board of education, in providing the
14 minimum required number of instructional days or hours, shall
15 have greater flexibility in establishing the school calendar
16 by adjusting the days or extending the hours of actual
17 teaching or instructional time provided on specified
18 instructional days for the schools under the jurisdiction of
19 the local board. The academic school calendar, established by
20 the local board of education, shall include the minimum
21 required number of instructional days or hours, ~~with the first~~
22 ~~day of instruction for students no earlier than the Monday two~~
23 ~~calendar weeks before Labor Day, unless August 31 is a Monday,~~
24 ~~then on Monday, August 17, and the last day of instruction for~~
25 ~~students shall be no later than the Friday immediately before~~
26 ~~Memorial Day.~~

1 "d. The local board of education shall expend funds
2 for teachers' salaries in accordance with a salary schedule
3 adopted by the local board of education and approved by the
4 State Superintendent of Education. The salary schedule shall
5 be at least 100 percent of those salary amounts specified in
6 the State Minimum Salary Schedule by cell.

7 "The local board of education shall allocate state
8 and local Foundation Program funds to each school in an
9 equitable manner, based on the needs of the students and the
10 schools, as reflected in the current year's actual student
11 populations, including at-risk students, students receiving
12 special education services, and students enrolled in
13 vocational/technical educational programs. The local board of
14 education shall report annually to the State Board of
15 Education on how all state and local funds for public
16 education, including Foundation Program funds and capital
17 outlay funds, have been allocated to each of its schools or
18 area vocational centers.

19 "e. The local board of education shall submit to the
20 State Superintendent of Education, under the regulations of
21 the State Board of Education, the following:

22 "1. A proposed building program which sets out in
23 detail the location of all present and proposed buildings;
24 which indicates proposed educational centers and grades to be
25 taught at these centers and which provides schools for all
26 children of the local board of education.

1 "2. Except for those city boards of education not
2 maintaining a transportation system, a proposed transportation
3 program showing the proposed routing of buses and the
4 condition of all roads to be used for transportation.

5 "3. A proposed professional development program
6 which sets out in detail the professional development needs of
7 employees of the local board of education.

8 "4. A proposed technology program which sets out in
9 detail the proposed expenditures of technology funds.

10 "5. A proposed program for the provision of services
11 to students with disabilities and gifted students in
12 compliance with applicable state and federal laws.

13 "6. A proposed program for the provision of
14 vocational educational services in compliance with applicable
15 state and federal laws.

16 "7. A proposed program for the provision of
17 educational services to at-risk students in compliance with
18 applicable state and federal laws. The proposed program for
19 at-risk students shall include the provision that all funds
20 allocated shall be spent for at-risk students.

21 "f. The local board of education shall meet such
22 other standards as may be set up by the State Board of
23 Education to promote improved educational opportunity and
24 provide better schools.

25 "(2) DETERMINING COST OF FOUNDATION PROGRAM. In
26 determining the cost of the Foundation Program, the
27 Legislature, based on the recommendation of the State Board of

1 Education, shall proceed to find the following allowable costs
2 for each local board of education: Teachers' salaries, fringe
3 benefits, classroom instructional support, and other current
4 expense. The rate per employee set by the Legislature for
5 teachers' retirement and employees' health insurance shall be
6 in effect for the entire fiscal year and shall not be
7 increased by the Teachers' Retirement System or the Public
8 Education Employees' Health Insurance Board, except by further
9 action of the Legislature.

10 "a. The Foundation Program allowance for salaries of
11 teachers shall be determined as follows: The number of teacher
12 units allowed in Section 16-13-232 for each local board of
13 education shall be multiplied by the amount or amounts per
14 teacher unit, which amounts shall be based on the average
15 salaries for each major classification required by the
16 operation of the State Minimum Salary Schedule established by
17 the Legislature in the Education Trust Fund appropriation bill
18 and adopted by the State Board of Education. In recommending
19 to the Governor and the Legislature the State Minimum Salary
20 Schedule the State Board of Education shall give due
21 consideration to degree level, certification, and public
22 education experience. Any teacher, including, but not limited
23 to, a vocational education teacher, currently under contract
24 in excess of 187 days shall not have the term or salary of his
25 or her contract reduced as a result of this article.

26 "b. The Foundation Program allowance for fringe
27 benefits shall be determined by multiplying a uniform

1 percentage times the amount of teachers' salaries allowed in
2 paragraph a. above or by multiplying a fixed rate depending on
3 the type of fringe benefit. The fringe benefits allowances
4 shall include amounts for the employer's contribution for
5 teachers' retirement, health insurance, Social Security,
6 Medicare, unemployment compensation, personal leave, and sick
7 leave. The fringe benefits allowance may include allowances
8 for other fringe benefits as may be approved by the State
9 Legislature. The State Legislature shall seek the input and
10 advice of appropriate agencies and individuals in setting
11 allowances. The Teachers' Retirement System and the Public
12 Education Employees' Health Insurance Board shall recommend to
13 the Legislature, on or before the first legislative day of
14 each regular session of the Legislature, the rate for the
15 following fiscal year. The Legislature shall set the rate in
16 the annual appropriation bill.

17 "c. The Foundation Program allowance for classroom
18 instructional support shall be determined by multiplying a
19 uniform amount times the number of teacher units allowed in
20 Section 16-13-232. The uniform amount shall include allowances
21 for library enhancement, classroom materials and supplies,
22 professional development, and technology. The library
23 enhancement appropriation shall be for K-12 Public School
24 Library/Media Centers and is an absolute appropriation. Other
25 expenditures may include book binding, repair, CD Roms,
26 computer software, computer equipment, cataloging,
27 audio-visual materials, newspapers, magazines, recordings, and

1 video tapes. The uniform amount may include allowances for
2 other classroom instructional support as may be approved by
3 the State Board of Education. The Foundation Program allowance
4 for classroom instructional support shall also include an
5 allowance for textbooks which shall be determined on a per
6 pupil basis. The number of pupils shall be determined by the
7 number of pupils in average daily membership during the first
8 20 scholastic days after Labor Day of the preceding school
9 year. The State Board of Education shall recommend to the
10 Governor the amount for each cost factor included in classroom
11 instructional support on or before December 1 of the current
12 fiscal year for the ensuing fiscal year.

13 "d. The Foundation Program allowance for other
14 current expense shall be determined by multiplying a uniform
15 amount by the number of earned units. The uniform amount shall
16 be recommended by the State Board of Education to the Governor
17 on or before December 1 of the current fiscal year for the
18 ensuing fiscal year.

19 "e. The State Board of Education may cause, from
20 time to time, a study of allowances for teachers' salaries,
21 fringe benefits, classroom instructional support, and other
22 current expense of local boards of education to be conducted
23 and, based on the results of the study, may propose any
24 necessary changes to the Governor and Legislature.

25 "f. The total cost of the Foundation Program for any
26 local board of education shall be the total allowed for
27 teachers' salaries, for fringe benefits, for classroom

1 instructional support, and for other current expense. The
2 allowances herein to the local boards of education shall be
3 expended subject to all applicable laws, rules, and
4 regulations; however, the total funds calculated in the total
5 cost of the Foundation Program for teachers' salaries shall be
6 expended for salaries within the instructional program.

7 "(3) DETERMINING FUNDS AVAILABLE TO PROVIDE
8 FOUNDATION PROGRAM.

9 "a. The funds available to meet the cost of the
10 Foundation Program shall be appropriated by the Legislature
11 taking into consideration an amount of local effort required
12 on the part of each local board of education. The required
13 local effort charged against each local board of education for
14 its share of the cost of the Foundation Program shall be as
15 follows:

16 "1. For the 1995-96 fiscal year, the equivalent of
17 five mills of local school tax district ad valorem tax as
18 reported pursuant to subsection (b)(1)a.

19 "2. For the 1996-97 fiscal year, the equivalent of
20 seven and one-half mills of local school tax district ad
21 valorem tax as reported pursuant to subsection (b)(1)a.

22 "3. For the 1997-98 fiscal year, the equivalent of
23 ten mills of local school tax district ad valorem tax as
24 reported pursuant to subsection (b)(1)a.

25 "4. For each fiscal year thereafter, the equivalent
26 of ten mills of local school tax district ad valorem tax as
27 reported pursuant to subsection (b)(1)a.

1 "b. After calculating the total cost of the
2 Foundation Program for each local board of education, the
3 state allocation from the Education Trust Fund is calculated
4 by subtracting the local effort required by this section from
5 the total cost. Although the cost of the Foundation Program is
6 calculated for each school, the one sum allocation for each
7 local board of education shall flow monthly to the local board
8 of education. The state funds for the Foundation Program shall
9 be allotted by the State Board of Education consistent with
10 State Board of Education rules and regulations.

11 "(c) No local board of education may reduce the
12 amount in any cell of any employee salary schedule, or
13 otherwise reduce the compensation of any employee, based upon
14 the amendments to this section made by Act 2012-482 or upon
15 any future modification to its calendar or schedule pursuant
16 to the amendments to this section made by Act 2012-482. Salary
17 appropriations in all future Education Trust Fund budgets
18 shall be based upon the number of contract days allocated by
19 the Legislature, or the hourly equivalent thereof."

20 Section 2. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official ReCompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill requires expenditures only by a school board.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.