

1 HB543
2 129386-1
3 By Representatives Davis, Hurst, McClendon, Barton and Ison
4 RFD: Education Policy
5 First Read: 19-APR-11

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8 SYNOPSIS: This bill establishes the Flexible School
9 Calendar Act of 2011.

10 Under existing law, to receive the maximum
11 benefits from the Foundation Program Fund, local
12 boards of education are required to provide a
13 minimum school term of at least 180 days.

14 This bill would allow a local board of
15 education, upon approval of the State
16 Superintendent of Education, to make up cancelled
17 instructional days due to weather or other
18 extenuating circumstances by adjusting the hours of
19 actual instruction.

20 This bill would allow a local board of
21 education, upon approval of the State
22 Superintendent of Education, to establish a local
23 calendar providing 180 full instructional days, or
24 the hourly equivalent thereof, per school year for
25 the computation of Foundation Program Fund
26 benefits, and would establish parameters for when
27 academic instruction may begin and end in the

1 public elementary and secondary schools of the
2 state.

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

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

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To establish the Flexible School Calendar Act of
2 2011; to amend Section 16-13-231, Code of Alabama 1975,
3 relating to the public education Foundation Program Fund; to
4 allow a local board of education, upon approval of the State
5 Superintendent of Education, to make up cancelled
6 instructional days due to weather or other extenuating
7 circumstances by adjusting the hours of actual instruction; to
8 allow a local board of education, upon approval of the State
9 Superintendent of Education, to establish a local calendar
10 providing 180 full instructional days, or the hourly
11 equivalent thereof, per school year for the computation of
12 Foundation Program Fund benefits; to establish parameters for
13 when academic instruction for students may begin and end in
14 the public elementary and secondary schools of the state; and
15 in connection therewith to have as its purpose or effect the
16 requirement of a new or increased expenditure of local funds.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. This act shall be known and may be cited
19 as the Flexible School Calendar Act of 2011.

20 Section 2. Section 16-13-231 of the Code of Alabama
21 1975, is amended to read as follows:

22 "§16-13-231.

23 "(a) In addition to all other appropriations and
24 apportionments of public school money now provided by law and
25 made available for public schools there shall be apportioned
26 and paid to local boards of education from the Foundation
27 Program Fund, the amounts to be determined as hereinafter

1 provided and in accordance with regulations of the State Board
2 of Education. This Foundation Program Fund shall be used
3 principally:

4 "(1) To aid in providing at least a 180 full
5 instructional day minimum school term, or the hourly
6 equivalent thereof, except as otherwise provided in paragraph
7 c. of subdivision (1) of subsection (b); and,

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

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

13 "(1) REQUIREMENTS FOR PARTICIPATING IN FUND. In
14 order for a local board of education to share in the
15 apportionment of the Foundation Program Fund and to receive
16 the maximum benefits therefrom, the board shall meet the
17 following conditions:

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

1 revenues provided to the county board of education from the
2 county, from whatever tax source derived, shall be considered.
3 In determining compliance for a city board of education, tax
4 revenues provided to the city board of education by the county
5 and the city, from whatever tax source derived, shall be
6 considered.

7 "b. In the expenditure of all funds available for
8 the Foundation Program as herein defined, the local board of
9 education shall as nearly as practicable provide the same
10 length of term in all schools.

11 "c. ~~The~~ 1. Except as otherwise provided in this
12 paragraph, the local board of education shall provide a school
13 term of at least 180 full instructional days, or the hourly
14 equivalent thereof, beginning with school year ~~2006-2007~~
15 2011-2012, or such part of that school term as can be
16 maintained by using funds available and as defined by
17 regulations of the State Board of Education. The local
18 academic school calendar shall be annually established by the
19 local board of education, and submitted for approval by the
20 State Superintendent of Education, within the parameters of
21 subparagraph 3. In case the local board of education fails to
22 operate any schools the minimum 180 full instructional day
23 term, or the hourly equivalent thereof, or the minimum term as
24 defined by the State Board of Education, the Foundation
25 Program allowances of the local board of education shall be
26 computed only for the actual period the schools are in session
27 that school year.

1 "2. In extreme circumstances involving natural
2 occurrences, health-related occurrences, or other extenuating
3 circumstances that result in the cancellation of an
4 instructional day, a local board of education may submit a
5 plan for the approval of the State Superintendent of Education
6 to replace cancelled instructional days by adjusting the
7 school calendar to extend the hours of actual teaching time on
8 specified instructional days.

9 "3. Beginning with the 2011-2012 school year, a
10 local board of education, in providing the minimum required
11 number of instructional days or hours, shall have greater
12 flexibility in establishing the school calendar by adjusting
13 the days or extending the hours of actual teaching or
14 instructional time provided on specified instructional days
15 for the schools under the jurisdiction of the local board. The
16 academic school calendar, established by the local board of
17 education and submitted for approval by the State
18 Superintendent of Education, shall include the minimum
19 required number of instructional days or hours, with the first
20 day of instruction for students no earlier than the Monday two
21 calendar weeks before Labor Day, unless August 31 is a Monday,
22 then on Monday, August 17, and the last day of instruction for
23 students shall be no later than the Friday immediately before
24 Memorial Day.

25 "d. The local board of education shall expend funds
26 for teachers' salaries in accordance with a salary schedule
27 adopted by the local board of education and approved by the

1 State Superintendent of Education. The salary schedule shall
2 be at least 100 percent of those salary amounts specified in
3 the State Minimum Salary Schedule by cell.

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

16 "e. The local board of education shall submit to the
17 State Superintendent of Education, under the regulations of
18 the State Board of Education, the following:

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

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

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

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

6 "5. A proposed program for the provision of services
7 to students with disabilities and gifted students in
8 compliance with applicable state and federal laws.

9 "6. A proposed program for the provision of
10 vocational educational services in compliance with applicable
11 state and federal laws.

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

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

21 "(2) DETERMINING COST OF FOUNDATION PROGRAM. In
22 determining the cost of the Foundation Program, the
23 Legislature, based on the recommendation of the State Board of
24 Education, shall proceed to find the following allowable costs
25 for each local board of education: Teachers' salaries, fringe
26 benefits, classroom instructional support, and other current
27 expense. The rate per employee set by the Legislature for

1 teachers' retirement and employees' health insurance shall be
2 in effect for the entire fiscal year and shall not be
3 increased by the Teachers' Retirement System or the Public
4 Education Employees' Health Insurance Board, except by further
5 action of the Legislature.

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

22 "b. The Foundation Program allowance for fringe
23 benefits shall be determined by multiplying a uniform
24 percentage times the amount of teachers' salaries allowed in
25 paragraph a. above or by multiplying a fixed rate depending on
26 the type of fringe benefit. The fringe benefits allowances
27 shall include amounts for the employer's contribution for

1 teachers' retirement, health insurance, Social Security,
2 Medicare, unemployment compensation, personal leave, and sick
3 leave. The fringe benefits allowance may include allowances
4 for other fringe benefits as may be approved by the State
5 Legislature. The State Legislature shall seek the input and
6 advice of appropriate agencies and individuals in setting
7 allowances. The Teachers' Retirement System and the Public
8 Education Employees' Health Insurance Board shall recommend to
9 the Legislature, on or before the first legislative day of
10 each regular session of the Legislature, the rate for the
11 following fiscal year. The Legislature shall set the rate in
12 the annual appropriation bill.

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

1 allowance for textbooks which shall be determined on a per
2 pupil basis. The number of pupils shall be determined by the
3 number of pupils in average daily membership during the first
4 20 scholastic days after Labor Day of the preceding school
5 year. The State Board of Education shall recommend to the
6 Governor the amount for each cost factor included in classroom
7 instructional support on or before December 1 of the current
8 fiscal year for the ensuing fiscal year.

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

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

21 "f. The total cost of the Foundation Program for any
22 local board of education shall be the total allowed for
23 teachers' salaries, for fringe benefits, for classroom
24 instructional support, and for other current expense. The
25 allowances herein to the local boards of education shall be
26 expended subject to all applicable laws, rules, and
27 regulations; however, the total funds calculated in the total

1 cost of the Foundation Program for teachers' salaries shall be
2 expended for salaries within the instructional program.

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

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

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

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

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

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

24 "b. After calculating the total cost of the
25 Foundation Program for each local board of education, the
26 state allocation from the Education Trust Fund is calculated
27 by subtracting the local effort required by this section from

1 the total cost. Although the cost of the Foundation Program is
2 calculated for each school, the one sum allocation for each
3 local board of education shall flow monthly to the local board
4 of education. The state funds for the Foundation Program shall
5 be allotted by the State Board of Education consistent with
6 State Board of Education rules and regulations."

7 Section 3. Although this bill would have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds, the bill is excluded from further
10 requirements and application under Amendment 621, now
11 appearing as Section 111.05 of the Official Recompilation of
12 the Constitution of Alabama of 1901, as amended, because the
13 bill requires expenditures only by a school board.

14 Section 4. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.