

1 SB308
2 157718-1
3 By Senator Brewbaker
4 RFD: Education
5 First Read: 04-FEB-14

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8 SYNOPSIS: Under existing law, the State Board of
9 Education may intervene in the educational
10 operations of a local board of education upon a
11 determination by the State Superintendent of
12 Education that certain conditions exist and written
13 notice by the State Superintendent of Education to
14 the local board of education to show cause why
15 intervention should not be implemented.

16 This bill would provide further for the
17 conditions that warrant issuance of written notice
18 and would provide that the notice be issued to the
19 local superintendent of education and the presiding
20 officer of the local school system in lieu of the
21 presiding officer of the city or county board of
22 education.

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24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 16-6E-4, Code of Alabama 1975, as
2 created by Act 2013-310, 2013 Regular Session (Acts 2013);
3 relating to intervention in local education operations and
4 assumption of control by the State Board of Education; to
5 provide further for the conditions that warrant issuance of
6 written notice; and to provide that notice be issued to the
7 local superintendent of education and the presiding officer of
8 the local school system in lieu of the presiding officer of
9 the city or county board of education.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 16-6E-4, Code of Alabama 1975, as
12 created by Act 2013-310, 2013 Regular Session (Acts 2013), is
13 amended to read as follows:

14 "§16-6E-4.

15 "The State Board of Education may intervene in the
16 educational operations of a city or county board of education
17 and thereby assume general and direct control over all
18 decision making and operational functions of the city or
19 county board of education under and subject to the following
20 terms and conditions:

21 "~~(1) If the State Superintendent of Education~~
22 ~~determines that a majority of the schools in the system are~~
23 ~~priority schools, or the system is not in compliance with~~
24 ~~Chapter 13A of this title or the accreditation status of the~~
25 ~~system or a majority of the schools in the system has been~~
26 ~~placed on probation, or suspended, or revoked, or if any other~~
27 ~~formal disciplinary action has been ordered by the accrediting~~

1 ~~authority, the~~ a. The State Superintendent of Education shall
2 issue a written notice to the local superintendent of
3 education and the presiding officer of the ~~city or county~~
4 ~~board of education~~ local school system to show cause why
5 educational intervention should not be implemented. The notice
6 shall issue upon the State Superintendent of Education finding
7 that one or more of the following conditions exist:

8 "1. The local school system is in material
9 noncompliance with statutes, rules, regulations, or
10 administrative directives relating to school governance and
11 accountability including, but not limited to, mandates imposed
12 by or under authority of Chapter 13A of this title.

13 "2. Material academic, financial, organizational, or
14 operational deficiencies are likely to lead to or cause loss
15 of substantial educational opportunities and benefits to
16 students served by the local school system.

17 "3. A majority of the schools in the local school
18 system are priority schools or have received disciplinary
19 action from an accrediting entity certified or recognized by
20 the State Board of Education.

21 "b. The notice shall specify the deficiencies within
22 the operation of the city or county board of education, the
23 steps that are required to be taken to correct the
24 deficiencies, and a reasonable timetable for completing the
25 corrective measures, which timetable may be extended by the
26 State Superintendent of Education. The notice shall require
27 that the recipient board provide a specific written response

1 to the notice, which response shall be filed with the State
2 Superintendent of Education not less than 21 calendar days
3 after the date the notice was issued, unless the time for
4 filing the response is extended by the State Superintendent of
5 Education. In its response, the city or county board of
6 education may offer reasons why intervention is not warranted
7 or, in the alternative, a specific plan and timetable for
8 correcting the deficiencies identified in the notice to show
9 cause.

10 "(2) If, based on the response of the city or county
11 board of education to the notice to show cause or other
12 relevant circumstances and considerations, the State
13 Superintendent of Education determines that educational
14 intervention is not warranted or should be deferred, the city
15 or county board of education shall be notified of such
16 determination.

17 "(3) If, in light of the response of the city or
18 county board of education, the State Superintendent of
19 Education concludes that educational intervention is
20 nonetheless warranted, but that the plan proposed by the city
21 or county board of education for correcting the deficiencies
22 set forth in the notice is acceptable, with or without such
23 modifications as may be required by the State Superintendent
24 of Education, the city or county board of education shall be
25 notified of such determination. The plan, with any
26 modifications thereto that may be required by the State

1 Superintendent of Education, shall thereafter be implemented
2 according to its terms.

3 "(4) If the approved plan is not implemented or if
4 the response to the notice to show cause does not include a
5 plan that, in the judgment of the State Superintendent of
6 Education, adequately addresses the deficiencies that prompted
7 issuance of the notice, the State Superintendent of Education
8 shall request in writing that the State Board of Education
9 approve a resolution authorizing the State Superintendent of
10 Education to intervene in the operations of the city or county
11 board of education. The request of the State Superintendent of
12 Education shall include a description of the conditions and
13 circumstances supporting the request, a copy of the response
14 of the city or county board of education to the notice to show
15 cause why educational intervention should not be implemented,
16 an explanation of why the response of the city or county board
17 of education to the notice to show cause does not adequately
18 address the deficiencies identified in the notice, and a
19 proposed plan for correcting the deficiencies. The city or
20 county board of education that is the subject of the request
21 shall be notified thereof by the State Superintendent of
22 Education and shall be provided with a copy of the request of
23 the State Superintendent of Education and any material
24 accompanying or submitted in support of the request. Before
25 any vote of the State Board of Education on the request, the
26 city or county board of education that is the subject of the
27 request shall be afforded an opportunity to demonstrate in

1 writing to the State Board of Education why such action is not
2 warranted or should not be approved and to appear before the
3 State Board of Education for such purpose prior to a vote
4 being taken on the request for educational intervention.

5 "(5) The State Board of Education shall authorize
6 intervention under this chapter on the basis of the
7 deficiencies and supporting data cited in support of the
8 request for intervention authority of the State Superintendent
9 of Education and upon a finding that the city or county board
10 of education has demonstrated an unwillingness or inability to
11 voluntarily comply with the standards provided in subdivision
12 (1) and the requirements specified in the request of the State
13 Superintendent of Education. The resolution by which
14 educational intervention is authorized shall describe with
15 reasonable specificity the criteria or conditions that are
16 required to be satisfied by the city or county board of
17 education in order to be released from intervention. If the
18 State Board of Education approves a resolution authorizing
19 educational intervention, the State Superintendent of
20 Education may exercise plenary authority to make such
21 decisions or take such actions as he or she reasonably deems
22 necessary to correct the deficiencies that led to the request
23 for approval of intervention or that may be discovered in the
24 exercise of intervention authority. Educational intervention
25 authority may be exercised directly by the State
26 Superintendent of Education or indirectly through his or her
27 designee acting as a chief administrative officer who shall be

1 appointed by, report to, and serve in such capacity at the
2 pleasure and under the supervision of the State Superintendent
3 of Education. The chief administrative officer may act on
4 behalf of the State Superintendent of Education for all
5 purposes under this chapter. If the State Superintendent of
6 Education appoints a chief administrative officer, that
7 officer shall be designated by name in a resolution presented
8 to the State Board of Education.

9 "(6) While a city or county board of education is
10 operating under educational intervention, the State
11 Superintendent of Education or the chief administrative
12 officer shall have the power and authority to act for and on
13 behalf of the city or county board of education and its
14 superintendent in all matters and for all purposes under the
15 Code of Alabama 1975. No decision, action, or undertaking made
16 or approved by the State Superintendent of Education or chief
17 administrative officer shall require the separate
18 recommendation, concurrence, or approval of any city or county
19 board of education or any official thereof in order to be
20 deemed final, valid, or enforceable. While under educational
21 intervention, a city or county board of education, with the
22 approval of the State Superintendent of Education or the chief
23 administrative officer, may meet according to a schedule and
24 agenda that are approved in advance by the State
25 Superintendent of Education or the chief administrative
26 officer and are subject to modification only at the direction
27 or with the express approval of the State Superintendent of

1 Education or the chief administrative officer. Otherwise, the
2 city or county board of education shall meet only at the call
3 of and for specific purposes approved by the State
4 Superintendent of Education or the chief administrative
5 officer. While under educational intervention, city and county
6 boards of education and their officials and employees shall
7 serve under the supervision and direction of the State
8 Superintendent of Education or the chief administrative
9 officer. The State Superintendent of Education or the chief
10 administrative officer may delegate to the employees of the
11 State Department of Education or city or county board of
12 education officials or employees such administrative authority
13 and responsibilities as they may deem necessary to ensure the
14 timely, practical, and efficient execution of normal
15 educational functions, and, at the expense of the city or
16 county board of education, may engage and direct the
17 activities of such consultants, specialists, or employees as
18 they deem necessary to achieve the objectives of the
19 intervention.

20 "(7) Personnel actions that the State Superintendent
21 of Education or the chief administrative officer deem
22 necessary and appropriate to the attainment of intervention
23 objectives may be implemented directly by such officials.
24 Personnel actions taken pursuant to the intervention authority
25 of the State Superintendent of Education must comply with
26 Chapter 24C of this title, the Students First Act of 2011, if
27 and to the extent that the Students First Act of 2011 would

1 otherwise control, except that the State Superintendent of
2 Education shall discharge the functions that would otherwise
3 be executed by the local superintendent and board of education
4 under the Students First Act of 2011. Intervention-related
5 personnel actions shall also be described by the State
6 Superintendent of Education or the chief administrative
7 officer in a written report that shall include the specific
8 personnel actions to be taken and an explanation of how such
9 actions serve the attainment of one or more intervention
10 objectives. At the direction of the State Superintendent of
11 Education or the chief administrative officer, and as soon as
12 practicable following its issuance, the report shall be
13 entered into the minutes of the city or county board of
14 education and the nature of individual personnel actions shall
15 be suitably memorialized in the personnel files of affected
16 employees and in databases or other records maintained for
17 such purposes by the city or county board of education. No
18 delay or irregularity in the transmittal or recordation of the
19 foregoing report or related data shall invalidate or impair
20 the timely implementation of intervention-related personnel
21 actions as prescribed by the State Superintendent of Education
22 or the chief administrative officer. Personnel actions that
23 are deemed advisable or appropriate but that are not
24 identified as related to the attainment of intervention
25 objectives by the State Superintendent of Education or the
26 chief administrative officer may be initiated and acted on by
27 city or county board officials. Such actions shall be taken in

1 accordance with Chapter 24C of this title, the Students First
2 Act of 2011, or other generally applicable statutory
3 requirements, policies, and procedures if the proposed actions
4 would otherwise be subject to such statutes, policies, and
5 procedures and if they are first authorized by the State
6 Superintendent of Education or the chief administrative
7 officer.

8 "(8) The State Superintendent of Education shall
9 report to the State Board of Education regarding the status of
10 intervention in the affected city or county system
11 periodically or at the request of the State Board of Education
12 and, in any event, not less than once every six months.

13 "(9) A city or county board of education may be
14 released from educational intervention upon the adoption of a
15 resolution by the State Board of Education authorizing such
16 action. The resolution shall be considered by the State Board
17 of Education upon the written recommendation of the State
18 Superintendent of Education or upon presentation of a written
19 petition requesting such action duly executed by at least
20 two-thirds of the members of the city or county board of
21 education that is operating under educational intervention.
22 The petition shall set forth the grounds on which the petition
23 is based and may include any evidence that may be relevant to
24 consideration by the State Board of Education. Representatives
25 of the city or county board of education may also be heard in
26 connection with the petition, but no vote shall be taken on
27 the petition by the State Board of Education without first

1 soliciting the views of the State Superintendent of Education
2 regarding the merits of the petition."

3 Section 2. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.