

1 HB79
2 115690-1
3 By Representative Buskey
4 RFD: Education Policy
5 First Read: 12-JAN-10
6 PFD: 01/06/2010

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8 SYNOPSIS: Under existing law, notices of employee
9 personnel vacancies are required to be posted at
10 public K-12 schools and postsecondary education
11 institutions.

12 This bill would require the posting of
13 notices of vacancies in the positions of State
14 Superintendent of Education, appointed county
15 superintendent of education, appointed city
16 superintendent of education, Chancellor of
17 Postsecondary Education, and chief executive
18 officer of any two-year school or college under the
19 auspices of the State Board of Education, the
20 Alabama Institute for Deaf and Blind, the Alabama
21 School of Fine Arts, the Department of Youth
22 Services School District, and the Alabama High
23 School of Mathematics and Science.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

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

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18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to public education; to amend Sections
23 16-9-11, 16-12-1, and 16-60-111.1, Code of Alabama 1975; to
24 add Sections 16-4-1.1 and 16-60-111.9 to the Code of Alabama
25 1975; to require the posting of notices of vacancies in the
26 positions of State Superintendent of Education, appointed
27 county superintendent of education, appointed city

1 superintendent of education, Chancellor of Postsecondary
2 Education, and the chief executive officer of any two-year
3 school or college under the auspices of the State Board of
4 Education, the Alabama Institute for Deaf and Blind, the
5 Alabama School of Fine Arts, the Department of Youth Services
6 School District, and the Alabama High School of Mathematics
7 and Science; and in connection therewith to have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds within the meaning of Amendment 621
10 of the Constitution of Alabama of 1901, now appearing as
11 Section 111.05 of the Official Recompilation of the
12 Constitution of Alabama of 1901, as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 16-4-1.1 is added to the Code of
15 Alabama 1975, to read as follows:

16 (a) Notice of a vacancy in the position of State
17 Superintendent of Education shall be posted by the State Board
18 of Education. The notice shall be posted in a conspicuous
19 place at each school campus and worksite, including all state
20 and local board of education offices, at least 30 calendar
21 days before the position is to be filled. The notice shall
22 remain posted until the position is filled and shall include,
23 but not necessarily be limited to, all of the following:

- 24 (1) Job description and title.
- 25 (2) Required qualifications.
- 26 (3) Salary amount.
- 27 (4) Information on where to submit an application.

1 (5) Information on any deadlines for applying.

2 (6) Any other relevant information.

3 (b) The State Board of Education may adopt or
4 continue policies which are not inconsistent with this
5 section. The position shall not be filled during the required
6 posting period, except as herein provided. The posting of a
7 vacancy notice as required in this section shall not be
8 abridged or delayed except in emergency circumstances and then
9 delayed only temporarily in order to reasonably meet the
10 conditions of the emergency. Violation of the notice
11 requirements of this section shall void any related employment
12 action taken by the board.

13 (c) A vacancy in the position of State
14 Superintendent of Education shall be filled by the State Board
15 of Education within 120 days after the vacancy occurs. The
16 board may temporarily fill the position on an interim basis
17 for not more than six months.

18 Section 2. Sections 16-9-11, 16-12-1, and
19 16-60-111.1 of the Code of Alabama 1975, are amended to read
20 as follows:

21 "§16-9-11.

22 "(a) A vacancy in the ~~office~~ position of county
23 superintendent shall be filled by the county board of
24 education within ~~90~~ 120 days after such a vacancy occurs.

25 "(b) In the event such vacancy is not filled by the
26 county board of education within ~~90~~ 120 days, the state
27 superintendent shall fill such vacancy by appointment. The

1 appointee shall hold office for the unexpired term. "Term," as
2 used in this section, includes, in addition to those terms the
3 beginning and ending of which are fixed definitely by the law,
4 terms fixed by the county board of education, in which latter
5 case the unexpired term shall be the balance of the term fixed
6 for the last person serving as such officer; ~~provided, that~~
7 ~~when.~~ When there is such vacancy which the state
8 superintendent is authorized to fill, and no term has been
9 fixed by the county board of education, and no term of
10 definite duration is fixed by law, the appointee of the State
11 Superintendent of Education shall serve two years from the
12 next succeeding first day of July.

13 "(c) Notice of a vacancy in the position of an
14 appointed county superintendent of education shall be posted
15 by the county board of education. The notice shall be posted
16 in a conspicuous place at each school campus and worksite at
17 least 30 calendar days before the position is to be filled.
18 The notice shall remain posted until the position is filled
19 and shall include, but not necessarily be limited to, all of
20 the following:

21 "(1) Job description and title.

22 "(2) Required qualifications.

23 "(3) Salary range.

24 "(4) Information on where to submit an application.

25 "(5) Information on any deadlines for applying.

26 "(6) Any other relevant information.

1 "(d) The board may adopt or continue policies which
2 are not inconsistent with this section. The position shall not
3 be filled during the required posting period, except as herein
4 provided. The posting of a vacancy notice as required in this
5 section shall not be abridged or delayed except in emergency
6 circumstances and then delayed only temporarily in order to
7 reasonably meet the conditions of the emergency. The adoption
8 of additional policies shall comply with the requirements and
9 procedures of Section 16-1-30.

10 "(e) Substantive, willful violation of the notice
11 requirements of this section shall void any related employment
12 action taken by the board.

13 "§16-12-1.

14 "(a) The city board of education shall appoint a
15 city superintendent of schools to hold office at the pleasure
16 of the board. The city superintendent of schools shall receive
17 such compensation as the city board of education shall direct.
18 The city board of education may remove the city superintendent
19 of schools for incompetency, immorality, misconduct in office,
20 willful neglect of duty or when, in the opinion of the board,
21 the best interests of the schools require ~~it~~ such action.

22 "(b) Notice of a vacancy in the position of an
23 appointed city superintendent of education shall be posted by
24 the city board of education. The notice shall be posted in a
25 conspicuous place at each school campus and worksite at least
26 30 calendar days before the position is to be filled. The
27 notice shall remain posted until the position is filled and

1 shall include, but not necessarily be limited to, all of the
2 following:

3 "(1) Job description and title.

4 "(2) Required qualifications.

5 "(3) Salary range.

6 "(4) Information on where to submit an application.

7 "(5) Information on any deadlines for applying.

8 "(6) Any other relevant information.

9 "(c) The board may adopt or continue policies which
10 are not inconsistent with this section. The position shall not
11 be filled during the required posting period, except as herein
12 provided. The posting of a vacancy notice as required in this
13 section shall not be abridged or delayed except in emergency
14 circumstances and then delayed only temporarily in order to
15 reasonably meet the conditions of the emergency. The adoption
16 of additional policies shall comply with the requirements and
17 procedures of Section 16-1-30.

18 "(d) A vacancy in the position of city
19 superintendent shall be filled by the board within 120 days
20 after such a vacancy occurs.

21 "(e) Substantive, willful violation of the notice
22 requirements of this section shall void any related employment
23 action taken by the board.

24 "§16-60-111.1.

25 "(a) For the sole purpose of assisting the board in
26 carrying out its authority and responsibility for each of the
27 junior colleges and trade schools, the board shall have the

1 authority to appoint a Chancellor who will also be Chief
2 Executive Officer of the Postsecondary Education Department.
3 The Chancellor shall serve at the pleasure of the board and
4 perform such duties as assigned by the board, ~~provided,~~
5 ~~however, that the.~~ The board may enter into a contract with
6 the Chancellor for his or her services for a period not to
7 exceed four years. The Chancellor shall be a person of good
8 moral character with academic and professional education
9 equivalent to graduation from a recognized university or
10 college, who is knowledgeable in postsecondary institution
11 administration and has training and experience sufficient to
12 qualify him or her to perform the duties of ~~his~~ the office.

13 "(b) Notice of a vacancy in the position of
14 Chancellor shall be posted by the State Board of Education.
15 The notice shall be posted in a conspicuous place at each
16 postsecondary school campus and worksite, including all state
17 and local board of education offices, at least 30 calendar
18 days before the position is to be filled. The notice shall
19 remain posted until the position is filled and shall include,
20 but not necessarily be limited to, all of the following:

21 "(1) Job description and title.

22 "(2) Required qualifications.

23 "(3) Salary range.

24 "(4) Information on where to submit an application.

25 "(5) Information on any deadlines for applying.

26 "(6) Any other relevant information.

1 "(c) The board may adopt or continue policies which
2 are not inconsistent with this section. The position shall not
3 be filled during the required posting period, except as herein
4 provided. The posting of a vacancy notice as required in this
5 section shall not be abridged or delayed except in emergency
6 circumstances and then delayed only temporarily in order to
7 reasonably meet the conditions of the emergency. A violation
8 of the notice requirements of this section shall void any
9 related employment action taken by the board.

10 "(d) A vacancy in the position of Chancellor shall
11 be filled by the state board within 180 days after such a
12 vacancy occurs. The board may temporarily fill the position on
13 an interim basis for not more than six months."

14 Section 3. Section 16-60-111.9 is added to the Code
15 of Alabama 1975, to read as follows:

16 (a) For the purposes of this section, the following
17 terms shall have the following meanings:

18 (1) BOARD. The Board of Trustees of the Alabama
19 Institute for Deaf and Blind; the Alabama Youth Services
20 Department School Board in its capacity as the Board of
21 Education for the Youth Services School District; the Board of
22 Directors of the Alabama School of Fine Arts; the Board of
23 Trustees of the Alabama High School of Mathematics and
24 Science; and the State Board of Education as applied to
25 two-year postsecondary education institutions.

26 (2) EXECUTIVE OFFICER. The President of the Alabama
27 Institute for Deaf and Blind; the president of any two-year

1 school or college under the auspices of the State Board of
2 Education; the Executive Director of the Alabama School of
3 Fine Arts; the Superintendent of the Department of Youth
4 Services School District; and the Executive Director of the
5 Alabama High School of Mathematics and Science.

6 (b) Notice of a vacancy in the position of executive
7 officer shall be posted by the applicable board. The notice
8 shall be posted in a conspicuous place at each school campus
9 and worksite at least 30 calendar days before the position is
10 to be filled. The notice shall remain posted until the
11 position is filled and shall include, but not necessarily be
12 limited to, all of the following:

13 (1) Job description and title.

14 (2) Required qualifications.

15 (3) Salary range.

16 (4) Information on where to submit an application.

17 (5) Information on any deadlines for applying.

18 (6) Any other relevant information.

19 (c) The board may adopt or continue policies which
20 are not inconsistent with this section. The position shall not
21 be filled during the required posting period, except as herein
22 provided. The posting of a vacancy notice as required in this
23 section shall not be abridged or delayed except in emergency
24 circumstances and then delayed only temporarily in order to
25 reasonably meet the conditions of the emergency. The adoption
26 of additional policies shall comply with the requirements and
27 procedures of Section 16-1-30.

1 (d) A vacancy in the position of executive officer
2 shall be filled by the board within 120 days after such
3 vacancy occurs. The board may temporarily fill the position on
4 an interim basis for not more than six months. Experience
5 gained by employment on a temporary interim or emergency basis
6 may not be applied toward job experience requirements.

7 (e) Violation of the notice requirements of this
8 section shall void any related employment action taken by the
9 board.

10 Section 4. The requirements of this act shall not
11 apply to any search underway on the effective date of this
12 act.

13 Section 5. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, now
17 appearing as Section 111.05 of the Official Recompilation of
18 the Constitution of Alabama of 1901, as amended, because the
19 bill requires expenditures only by a school board.

20 Section 6. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.