

1 HB455
2 127371-4
3 By Representatives Buskey and McClurkin
4 RFD: Education Policy
5 First Read: 05-APR-11

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8 SYNOPSIS: Under existing law, notices of employee
9 personnel vacancies are required to be posted for
10 the appointed positions of county superintendent of
11 education and city superintendent of education.

12 This bill would extend the deadline for the
13 local board of education to fill the position of
14 superintendent from 120 to 180 days and would
15 provide for the appointment of an interim
16 superintendent of education.

17 Amendment 621 of the Constitution of Alabama
18 of 1901, now appearing as Section 111.05 of the
19 Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, prohibits a general
21 law whose purpose or effect would be to require a
22 new or increased expenditure of local funds from
23 becoming effective with regard to a local
24 governmental entity without enactment by a 2/3 vote
25 unless: it comes within one of a number of
26 specified exceptions; it is approved by the
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose. The purpose or effect
3 of this bill would be to require a new or increased
4 expenditure of local funds within the meaning of
5 the amendment. However, the bill does not require
6 approval of a local governmental entity or
7 enactment by a 2/3 vote to become effective because
8 it comes within one of the specified exceptions
9 contained in the amendment.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to public education; to amend Sections
16 16-9-11 and 16-12-1, Code of Alabama 1975, as amended by Act
17 2010-210, 2010 Regular Session (Acts 2010, p. 332); relating
18 to the posting of notices of vacancies in the positions of
19 appointed county superintendent of education and appointed
20 city superintendent of education; to extend the deadline for
21 the local board of education to fill the position of
22 superintendent from 120 to 180 days and would provide for the
23 appointment of an interim superintendent of education; and in
24 connection therewith to have as its purpose or effect the
25 requirement of a new or increased expenditure of local funds
26 within the meaning of Amendment 621 of the Constitution of
27 Alabama of 1901, now appearing as Section 111.05 of the

1 Official Recompilation of the Constitution of Alabama of 1901,
2 as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 16-9-11 and 16-12-1 of the Code
5 of Alabama 1975, as amended by Act 2010-210, 2010 Regular
6 Session (Acts 2010, p. 332), are amended to read as follows:

7 "§16-9-11.

8 "(a) A vacancy in the position of county
9 superintendent shall be filled by the county board of
10 education within ~~120~~ 180 days after such a vacancy occurs.
11 Within 90 days after the occurrence of a vacancy, the county
12 board of education shall announce, in a regularly or specially
13 called meeting, a proposed process and time-line for posting
14 and selecting a superintendent.

15 "(b) In the event such vacancy is not filled by the
16 county board of education within ~~120~~ 180 days, the state
17 superintendent shall ~~fill such vacancy by appointment. The~~
18 ~~appointee shall hold office for the unexpired term. Term, as~~
19 ~~used in this section, includes, in addition to those terms the~~
20 ~~beginning and ending of which are fixed definitely by the law,~~
21 ~~terms fixed by the county board of education, in which latter~~
22 ~~case the unexpired term shall be the balance of the term fixed~~
23 ~~for the last person serving as such officer. When there is~~
24 ~~such vacancy which the state superintendent is authorized to~~
25 ~~fill, and no term has been fixed by the county board of~~
26 ~~education, and no term of definite duration is fixed by law,~~
27 ~~the appointee of the State Superintendent of Education shall~~

1 ~~serve two years from the next succeeding first day of July~~
2 ~~withhold state warrants until the vacancy is filled unless the~~
3 ~~board, to the satisfaction of the state superintendent,~~
4 ~~exhibits good faith and reasonable effort in progress toward~~
5 ~~selecting a superintendent.~~

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

14 "(1) Job description and title.

15 "(2) Required qualifications.

16 "(3) Salary range.

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

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

19 "(6) Any other relevant information.

20 "(d) The board may adopt or continue policies which
21 are not inconsistent with this section. ~~The position shall not~~
22 ~~be filled during the required posting period, except as herein~~
23 ~~provided. The posting of a vacancy notice as required in this~~
24 ~~section shall not be abridged or delayed except in emergency~~
25 ~~circumstances and then delayed only temporarily in order to~~
26 ~~reasonably meet the conditions of the emergency. Whenever a~~
27 ~~vacancy occurs in the position of an appointed county~~

1 superintendent of education, the county board of education may
2 appoint an interim superintendent to serve for up to 180 days.
3 The interim superintendent shall satisfy the minimum
4 qualifications required for service as a county superintendent
5 of education. The county board of education, pertaining only
6 to the posting of the interim superintendent's position, shall
7 not be required to post the position. The adoption of
8 additional policies shall comply with the requirements and
9 procedures of Section 16-1-30.

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

22 "(b) Within 90 days after the occurrence of a
23 vacancy, the city board of education shall announce, in a
24 regularly or specially called meeting, a proposed process and
25 time-line for posting and selecting a superintendent. Notice
26 of a vacancy in the position of an appointed city
27 superintendent of education shall be posted by the city board

1 of education. The notice shall be posted in a conspicuous
2 place at each school campus and worksite at least 30 calendar
3 days before the position is to be filled. The notice shall
4 remain posted until the position is filled and shall include,
5 but not necessarily be limited to, all of the following:

6 "(1) Job description and title.

7 "(2) Required qualifications.

8 "(3) Salary range.

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

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

11 "(6) Any other relevant information.

12 "(c) The board may adopt or continue policies which
13 are not inconsistent with this section. ~~The position shall not~~
14 ~~be filled during the required posting period, except as herein~~
15 ~~provided. The posting of a vacancy notice as required in this~~
16 ~~section shall not be abridged or delayed except in emergency~~
17 ~~circumstances and then delayed only temporarily in order to~~
18 ~~reasonably meet the conditions of the emergency. Whenever a~~
19 ~~vacancy occurs in the position of an appointed city~~
20 ~~superintendent of education, the city board of education may~~
21 ~~appoint an interim superintendent to serve for up to 180 days.~~
22 ~~The interim superintendent shall satisfy the minimum~~
23 ~~qualifications required for service as a city superintendent~~
24 ~~of education. The city board of education, pertaining only to~~
25 ~~the posting of the interim superintendent's position, shall~~
26 ~~not be required to post the position.~~ The adoption of

1 additional policies shall comply with the requirements and
2 procedures of Section 16-1-30.

3 "(d) A vacancy in the position of city
4 superintendent shall be filled by the board within ~~120~~ 180
5 days after such a vacancy occurs.

6 "(e) ~~Violation~~ Substantive, willful violation of the
7 notice requirements of this section shall void any related
8 employment action taken by the board."

9 Section 2. Although this bill would have as its
10 purpose or effect the requirement of a new or increased
11 expenditure of local funds, the bill is excluded from further
12 requirements and application under Amendment 621, now
13 appearing as Section 111.05 of the Official ReCompilation of
14 the Constitution of Alabama of 1901, as amended, because the
15 bill requires expenditures only by a school board.

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