

1 SB361
2 137052-1
3 By Senator Brewbaker
4 RFD: Education
5 First Read: 23-FEB-12

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8 SYNOPSIS: This bill would establish the School Board
9 Governance Improvement Act of 2012.

10 This bill would provide for legislative
11 intent.

12 This bill would require all prospective
13 members of a local board of education to publicly
14 affirm certain principles of educational
15 governance.

16 This bill would specify the responsibilities
17 of members of local boards of education and would
18 provide for the implementation of training and
19 continuing education in boardsmanship for all
20 members of local boards of education.

21 This bill would provide for certain
22 sanctions to be imposed upon board members upon a
23 finding that the action or inaction of the board
24 member constitutes neglect of duty or willful
25 misconduct.

26 This bill would require the State Board of
27 Education to adopt a model code of conduct for

1 board members and would require local boards of
2 education to also adopt a model code of conduct.

3 This bill would also provide further for the
4 qualifications of members of city and county boards
5 of education.

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to local boards of education; to establish
12 the School Board Governance Improvement Act of 2012; to
13 provide legislative intent; to require prospective board
14 members to publicly affirm certain principles of educational
15 governance; to specify the responsibilities of board members;
16 to provide for the implementation of training and continuing
17 education in boardsmanship for all board members; to provide
18 for certain sanctions to be imposed upon board members upon a
19 finding that the action or inaction of a board member
20 constitutes neglect of duty or willful misconduct; to require
21 the State Board of Education and local boards of education to
22 adopt a model code of conduct for board members; and to amend
23 Sections 16-8-1 and 16-11-2, Code of Alabama 1975, relating to
24 the qualifications of members of city and county boards of
25 education.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. (a) This section shall be known and may
2 be cited as the School Board Governance Improvement Act of
3 2012.

4 (b) The Legislature finds and declares all of the
5 following:

6 (1) That the purpose of this section is to enhance
7 the effectiveness of public education governance in Alabama
8 through the establishment of training requirements,
9 boardsmanship standards, and accountability measures that are
10 designed to promote informed deliberations and decisions, to
11 revise the qualifications for serving as a member of a local
12 board of education, to provide for a code of conduct for each
13 member of a local board of education in order to better ensure
14 that any decision or action of a local board of education is
15 based on the interests of students or the system, and to
16 foster the development and implementation of organizational
17 practices that are designed to promote broad support of the
18 public schools.

19 (2) A local board of education is the legally
20 constituted body that governs a local school system, promotes
21 student learning, and prepares students to be college and
22 career ready. A local school board, and not individual board
23 members, is entrusted with this responsibility. To function
24 effectively, board members, both individually and
25 collectively, must operate with the highest degree of
26 accountability to these responsibilities and their fiduciary
27 duty to act in the best interests of the local school system,

1 without self-interest. A board member, as an individual, shall
2 satisfy minimum qualifications to serve, shall comply with a
3 code of conduct, and shall be required to participate in
4 orientation and ongoing training. To meet the goal of
5 comprehensive board member education and proficiency,
6 governance standards should be clearly reflected in board
7 member training with a focus on roles and responsibilities,
8 student and school performance standards, and the delineation
9 of each member's role as a public official holding public
10 trust.

11 (c) For the purposes of this section, the following
12 terms shall have the following meanings:

13 (1) BOARDSMANSHIP. The effective discharge of duties
14 as a member of a local board of education in keeping with the
15 highest standards of stewardship and principles of public
16 service as provided in this section.

17 (2) LOCAL BOARD OF EDUCATION. A city or county board
18 of education whether elected or appointed.

19 (d) (1) In conjunction with and as a precondition to
20 the installation of any elected or appointed member of a local
21 board of education, and in addition to all other requirements
22 imposed by law, prospective members shall be required for each
23 term of office to affirm publicly and in writing all of the
24 following principles of educational governance:

25 a. That each decision, action, and vote taken or
26 made as a member of a local board of education shall be based
27 solely on the needs and interests of students or the system.

1 b. That no decision, action, or vote shall be taken
2 or made to serve or promote the personal, political, or
3 pecuniary interests of the member.

4 c. That each decision, action, and vote shall be
5 based on the interests of the school system as a whole.

6 d. That the views of all members of the local board
7 of education and of the local superintendent of education
8 shall be considered before making a decision or taking an
9 action on any measure or proposal before the local board of
10 education.

11 e. That, except to the extent otherwise provided by
12 law, each member of a local board of education shall take
13 formal action upon the written recommendation of and in
14 consultation with the local superintendent of education, and
15 may not individually or jointly attempt to direct or corrupt
16 the operations of the school system in a manner that is
17 inconsistent with the discharge of the statutory functions and
18 responsibilities of the local superintendent of education.

19 f. That each member of a local board of education
20 shall actively promote public support for the school system
21 and a sound statewide system of public education, and shall
22 endorse ideas, initiatives, and programs that are designed to
23 improve the quality of public education for all students.

24 g. That each member of a local board of education
25 shall attend scheduled meetings and actively participate in
26 school system functions, activities, and training programs
27 that promote quality boardsmanship unless good cause is shown.

1 (2) In addition to those duties specifically
2 enumerated in the Code of Alabama 1975, a local board of
3 education shall have all of the following duties:

4 a. In concert with the local superintendent of
5 education, to establish a vision for the school system by
6 adopting goals that address student needs, advance student
7 performance, and monitor implementation of policies and
8 programs by reviewing data.

9 b. To adopt written policies and programs, upon the
10 recommendation of the local superintendent of education, to
11 further the educational goals of the system and respond to
12 system needs.

13 c. To act on personnel recommendations submitted by
14 the local superintendent of education in a timely manner,
15 based on student needs and system finances, without regard to
16 personal preferences or political interests.

17 d. In concert with the local superintendent of
18 education, to consider and approve operating budgets for the
19 system aligned with the goals and objectives of the local
20 board of education.

21 e. To advocate for the needs, resources, and
22 interests of public school students and refer stakeholders and
23 constituents to the local superintendent of education so that
24 these issues can be addressed by school system personnel.

25 f. These duties should not be construed to limit or
26 change the duties of local boards of education as found in the
27 Code of Alabama 1975.

1 (e) In order to further the implementation of sound
2 principles of boardsmanship within and among the local boards
3 of education in the state, the State Superintendent of
4 Education shall develop continuing education and training
5 programs for the members of the local boards of education to
6 enhance the understanding of the role of each member in
7 assuring the effective provision of educational services. The
8 programs shall be developed in cooperation with the Alabama
9 Association of School Boards pursuant to Section 16-1-6, Code
10 of Alabama 1975.

11 (f) Any member of a local board of education who
12 fails to satisfy the standards of boardsmanship as provided in
13 this section, or other statutory duty or obligation, under
14 circumstances that constitute neglect of duty or willful
15 misconduct, may be subject to the following sanctions:

16 (1) Formal censure or reprimand upon an affirmative
17 vote of a majority of the members of the local board of
18 education on which he or she serves. No such action shall be
19 taken unless the member, who is the subject of the proposed
20 action, is provided at least 30 days' advance written notice
21 of the proposed action by the secretary of the local board of
22 education. The notice shall be issued only upon an affirmative
23 vote of a majority of the members of the whole board of
24 education, shall specify the reasons for the proposed action,
25 and shall state that the member shall be afforded an
26 opportunity to respond orally or in writing to the notice

1 before the vote of the local board of education on the
2 proposed action is taken.

3 (2) Upon the referral of a written complaint by a
4 majority vote of the applicable local board of education, or
5 when, in the judgment of the State Superintendent of
6 Education, sufficient cause exists to do so, and subject to
7 the conditions hereinafter specified, the State Superintendent
8 may investigate serious and substantial allegations of neglect
9 of duty, misconduct, or breach of duty on the part of any
10 member or members of a local board of education. On the basis
11 of the investigation, the State Superintendent of Education
12 may either decline to pursue formal sanctions or issue a
13 written notice to the board members whose conduct is in
14 question, which notice shall specify the proposed imposition
15 of any sanctions that are contemplated as a result of the
16 investigation. The notice shall also describe with reasonable
17 particularity the neglect of duty, misconduct, or other breach
18 of legal duty upon which any proposed sanction is based. The
19 board member shall have at least 30 days to show cause in
20 person or in writing why he or she should not be subject to
21 the proposed sanction or to otherwise object to the proposed
22 sanction. Upon request, the board member shall be granted a
23 hearing before the State Superintendent of Education, or his
24 or her designee, for the purpose of contesting any proposed
25 sanction.

26 (3) After the close of the investigation, review,
27 and hearing authorized by this section, the State

1 Superintendent of Education may recommend approval of any of
2 the following sanctions to the State Board of Education:

3 a. A formal censure or reprimand of the board
4 member.

5 b. For any board member who fails to meet mandated
6 training and attendance requirements, the member shall be
7 subject to disqualification from eligibility for future
8 appointment, reappointment, or election to any local board of
9 education in the state.

10 c. For a board member whose conduct is found by the
11 State Superintendent of Education to constitute neglect of
12 duty or willful misconduct, the member shall be subject to
13 disqualification from eligibility for future appointment,
14 reappointment, or election to any local board of education in
15 the state.

16 (4) Nothing in this subsection shall be deemed to
17 preclude a negotiated resolution of any action that may be
18 proposed or initiated by the State Superintendent of Education
19 under this section, provided that such resolution is suitably
20 memorialized, executed, made a matter of public record, and is
21 consistent with the purposes of this section.

22 (5) No sanction shall be imposed on the basis of the
23 exercise of personal, political, or other rights of a board
24 member that are protected by the United States Constitution or
25 by any state or federal statute.

26 (6) No sanction by the State Superintendent of
27 Education, other than as may be imposed by written agreement

1 with the board member, shall be effective until it is approved
2 by majority vote of the State Board of Education.

3 (g) The State Board of Education shall adopt a model
4 code of conduct for members of local boards of education by
5 January 1, 2013. Before April 1, 2013, each local board of
6 education shall adopt a code of conduct that includes, at a
7 minimum, the model code of conduct adopted by the State Board
8 of Education. The State Superintendent of Education shall
9 develop and issue regulations to implement the requirements of
10 this section, including any regulations deemed necessary and
11 appropriate to ensure that procedures to be followed in
12 connection with the imposition of sanctions authorized under
13 this section conform to applicable legal standards.

14 (h) This section is cumulative and in addition to
15 any other provision of law governing the training,
16 performance, and accountability of local boards of education
17 and members of local boards of education in the State of
18 Alabama.

19 Section 2. Sections 16-8-1 and 16-11-2 of the Code
20 of Alabama 1975, are amended to read as follows:

21 "§16-8-1.

22 "(a) The county board of education shall be composed
23 of five members, who shall be elected by the qualified
24 electors of the county.

25 "(b) County boards of education unless otherwise
26 provided by law may use the provisions of this subsection to
27 establish single member election districts with one board

1 member elected from each district. School boards exercising
2 this option may establish five or seven such districts. Such
3 plan shall be considered only after two weeks public notice
4 has been given, outlining generally the school districts under
5 consideration. The members so elected ~~must,~~ or appointed in
6 the event of a vacancy, shall be residents of the school
7 district in which election is sought. Such residency shall
8 have been established at least one year before the general
9 election at which the candidate is to be elected, or appointed
10 in the event of a vacancy. Whenever a member of a county board
11 of education moves his or her domicile from the district he or
12 she represents, he or she shall cease to be a member of the
13 county board of education, and a vacancy shall occur. The
14 member shall provide notice of the move to the secretary of
15 the local board of education before the commencement of
16 business at the first meeting of the local board of education
17 following the move. The boundaries of such single member
18 districts shall be determined by a majority vote of the county
19 board of education. The county board of education shall
20 apportion the districts according to the last federal
21 decennial census for the county utilizing the principle of
22 equal representation. Thereafter, each county board of
23 education choosing to implement single member election
24 districts shall reapportion those districts within six months
25 following the publication of the results of each federal
26 decennial census. ~~They shall be persons of good moral~~
27 ~~character, with at least a fair elementary education, of good~~

1 ~~standing in their respective communities and known for their~~
2 ~~honesty, business ability, public spirit and interest in the~~
3 ~~good of public education. No member of the county board of~~
4 ~~education shall be an employee of said board; provided, that~~
5 ~~in counties having populations of not less than 96,000 nor~~
6 ~~more than 106,000 according to the most recent federal~~
7 ~~decennial census, not more than one classroom teacher employed~~
8 ~~by the board may serve as a board member and also as a~~
9 ~~teacher. Members shall not be required to hold teachers'~~
10 ~~certificates.~~

11 "(c) No person shall be eligible for election or
12 appointment as a member of a county board of education unless
13 he or she satisfies all of the following qualifications:

14 "(1) Is a person of good moral character.

15 "(2) Has obtained a high school diploma or its
16 equivalent.

17 "(3) Is not employed by that county board of
18 education.

19 "(4) Is not serving on the governing board of a
20 private elementary or secondary educational institution.

21 "(5) Is not on the National Sex Offender Registry or
22 the state sex offender registry.

23 "§16-11-2.

24 "(a) The provisions of this chapter shall apply to
25 city boards of education unless otherwise provided by local
26 law pursuant to Amendment 659 to the Constitution of Alabama

1 of 1901, or any other provision of the Constitution of Alabama
2 of 1901.

3 "(b) The general administration and supervision of
4 the public schools and educational interest of each city shall
5 be vested in a city board of education, to be composed of five
6 members who shall be residents of the city, and who shall not
7 be members of the city council or commission. In any Class 4
8 municipality which has adopted a mayor-council form of
9 government pursuant to Chapter 43B (commencing with Section
10 11-43B-1) of Title 11, the city board of education may be
11 composed of seven members.

12 ~~"(c) The members of the city board of education, who
13 shall, except as hereinafter provided, serve without
14 compensation, shall be chosen solely because of their
15 character and fitness, but no person shall be appointed or
16 elected to this board pursuant to this section who is subject
17 to the authority of the board. In cities having populations of
18 not less than 50,000 nor more than 60,000 according to the
19 most recent federal decennial census, and the City of Attalla,
20 not more than one classroom teacher employed by the board may
21 serve as a board member and also as a classroom teacher.~~

22 ~~"(d) Each member of the city board in cities having
23 a population of 300,000 or more according to the last or any
24 subsequent federal census shall receive fifty dollars (\$50)
25 for each meeting of the board, whether special, regular, or
26 executive session, attended by him or her. No member shall
27 receive more than one hundred fifty dollars (\$150) during any~~

1 ~~one month. This compensation shall be paid from the city~~
2 ~~school funds in the manner provided for paying out of the city~~
3 ~~school funds.~~

4 "(c) No person shall be eligible for election or
5 appointment as a member of a city board of education unless he
6 or she satisfies all of the following qualifications:

7 "(1) Is a person of good moral character.

8 "(2) Has obtained a high school diploma or its
9 equivalent.

10 "(3) Is not employed by that city board of
11 education.

12 "(4) Is not serving on the governing board of a
13 private elementary or secondary educational institution.

14 "(5) Is not on the National Sex Offender Registry or
15 the state sex offender registry.

16 "(d) In those cities where the members of the city
17 board of education are elected or appointed to represent a
18 district, whenever a member of a city board of education moves
19 his or her domicile from the district he or she represents, he
20 or she shall cease to be a member of the city board of
21 education, and a vacancy shall occur. The member shall provide
22 notice of the move to the secretary of the city board of
23 education before the beginning of business at the first
24 meeting of the city board of education following the move.

25 "(e) Any city or town which has had the general
26 administration and supervision of the public schools and
27 educational interests of the city or town vested in a city

1 board of education for a period of 20 years or more prior to
2 August 15, 1951, may, except as may be provided by law,
3 continue to have general administration and supervision of the
4 public schools and educational interest under a local board of
5 education regardless of any past or future federal census."

6 Section 3. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.