

1 SB290
2 155471-1
3 By Senator Marsh
4 RFD: Finance and Taxation Education
5 First Read: 28-JAN-14

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, the Flexible School
9 Calendar Act of 2012 requires each local board of
10 education to establish an academic school calendar,
11 beginning with the 2012-2013 school year and ending
12 with the last day of the third month of the
13 2013-2014 school year, with the first day of
14 instruction for students no earlier than the Monday
15 two calendar weeks before Labor Day, unless August
16 31 is a Monday, then on Monday, August 17, and the
17 last day of instruction for students shall be no
18 later than the Friday immediately before Memorial
19 Day.

20 This bill would remove the temporary
21 academic school calendar parameters provided for
22 the 2013-2014 school year and would allow each
23 local board of education to provide the required
24 180 full instructional days based on an hourly
25 equivalent of 1080 instructional hours.

26 Amendment 621 of the Constitution of Alabama
27 of 1901, now appearing as Section 111.05 of the

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

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

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To amend Section 16-13-231, Code of Alabama 1975,
25 the Flexible School Calendar Act of 2012; to remove the
26 temporary academic school calendar parameters provided for the
27 2013-2014 school year; to allow each local board of education

1 to provide the required 180 full instructional days based on
2 an hourly equivalent of 1080 instructional hours; and in
3 connection therewith to have as its purpose or effect the
4 requirement of a new or increased expenditure of local funds;
5 and in connection therewith would have as its purpose or
6 effect the requirement of a new or increased expenditure of
7 local funds within the meaning of Amendment 621 of the
8 Constitution of Alabama of 1901, now appearing as Section
9 111.05 of the Official Recompilation of the Constitution of
10 Alabama of 1901, as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 16-13-231 of the Code of Alabama
13 1975, is amended to read as follows:

14 "§16-13-231.

15 "(a) In addition to all other appropriations and
16 apportionments of public school money now provided by law and
17 made available for public schools there shall be apportioned
18 and paid to local boards of education from the Foundation
19 Program Fund, the amounts to be determined as hereinafter
20 provided and in accordance with regulations of the State Board
21 of Education. This Foundation Program Fund shall be used
22 principally:

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

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

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

6 "(1) REQUIREMENTS FOR PARTICIPATING IN FUND. In
7 order for a local board of education to share in the
8 apportionment of the Foundation Program Fund and to receive
9 the maximum benefits therefrom, the board shall meet the
10 following conditions:

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

1 "b. In the expenditure of all funds available for
2 the Foundation Program as herein defined, the local board of
3 education shall as nearly as practicable provide the same
4 length of term in all schools.

5 ~~"c.1. Except as otherwise provided in this~~
6 ~~paragraph, the~~ The local board of education shall provide a
7 school term of at least 180 full instructional days, or the
8 hourly equivalent ~~thereof, beginning with school year~~
9 ~~2012-2013 and ending with the last day of the third month of~~
10 ~~the 2013-2014 school year, or such part of that school term as~~
11 ~~can be maintained by using funds available and as defined by~~
12 ~~regulations of the State Board of Education of 1080~~
13 instructional hours. The local academic school calendar shall
14 be annually established by the local board of education,
15 within the parameters of subparagraph 3. In case the local
16 board of education fails to operate any schools the minimum
17 180 full instructional day term, or the hourly equivalent
18 thereof, or the minimum term as defined by the State Board of
19 Education, the Foundation Program allowances of the local
20 board of education shall be computed only for the actual
21 period the schools are in session that school year.

22 "2. In extreme circumstances involving natural
23 occurrences, health-related occurrences, or other extenuating
24 circumstances that result in the cancellation of an
25 instructional day, a local board of education may submit a
26 plan for the approval of the State Superintendent of Education
27 to replace cancelled instructional days by adjusting the

1 school calendar to extend the hours of actual teaching time on
2 specified instructional days. At any time the Governor
3 declares a state of emergency for any part of the state, any
4 affected school system that is closed as a result and loses
5 student days or employee days, or both, may appeal to the
6 State Superintendent of Education for relief in fulfilling the
7 local school calendar with respect to student days or employee
8 days, or both, with no loss of income to employees.

9 "3. ~~Beginning with the 2012-2013 school year and~~
10 ~~ending with the last day of the third month of the 2013-2014~~
11 ~~school year,~~ a The local board of education, in providing the
12 minimum required number of instructional days or hours, shall
13 have greater flexibility in establishing the school calendar
14 by adjusting the days or extending the hours of actual
15 teaching or instructional time provided on specified
16 instructional days for the schools under the jurisdiction of
17 the local board. The academic school calendar, established by
18 the local board 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 "(c) No local board of education may reduce the
8 amount in any cell of any employee salary schedule, or
9 otherwise reduce the compensation of any employee, based upon
10 the amendments to this section made by Act 2012-482 or upon
11 any future modification to its calendar or schedule pursuant
12 to the amendments to this section made by Act 2012-482. Salary
13 appropriations in all future Education Trust Fund budgets
14 shall be based upon the number of contract days allocated by
15 the Legislature, or the hourly equivalent thereof."

16 Section 2. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, now
20 appearing as Section 111.05 of the Official ReCompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill requires expenditures only by a school board.

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