

ACT NO. 2012- 221

1 HB431
2 137052-4
3 By Representatives Beech, Patterson, Chesteen, Black, England,
4 Scott and Fincher
5 RFD: Education Policy
6 First Read: 28-FEB-12



1
2 ENROLLED, An Act,

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

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. (a) This section shall be known and may
20 be cited as the School Board Governance Improvement Act of
21 2012.

22 (b) The Legislature finds and declares all of the
23 following:

24 (1) That the purpose of this section is to enhance
25 the effectiveness of public education governance in Alabama

1 through the establishment of training requirements,
2 boardsmanship standards, and accountability measures that are
3 designed to promote informed deliberations and decisions, to
4 revise the qualifications for serving as a member of a local
5 board of education, to provide for a code of conduct for each
6 member of a local board of education in order to better ensure
7 that any decision or action of a local board of education is
8 based on the interests of students or the system, and to
9 foster the development and implementation of organizational
10 practices that are designed to promote broad support of the
11 public schools.

12 (2) A local board of education is the legally
13 constituted body that governs a local school system, promotes
14 student learning, and prepares students to be college and
15 career ready. A local school board, and not individual board
16 members, is entrusted with this responsibility. To function
17 effectively, board members, both individually and
18 collectively, must operate with the highest degree of
19 accountability to these responsibilities and their fiduciary
20 duty to act in the best interests of the local school system,
21 without self-interest. A board member, as an individual, shall
22 satisfy minimum qualifications to serve, shall comply with a
23 code of conduct, and shall be required to participate in
24 orientation and ongoing training. To meet the goal of
25 comprehensive board member education and proficiency,

1 governance standards should be clearly reflected in board
2 member training with a focus on roles and responsibilities,
3 student and school performance standards, and the delineation
4 of each member's role as a public official holding public
5 trust.

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

8 (1) BOARDSMANSHIP. The effective discharge of duties
9 as a member of a local board of education in keeping with the
10 highest standards of stewardship and principles of public
11 service as provided in this section.

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

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

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

23 b. That no decision, action, or vote shall be taken
24 or made to serve or promote the personal, political, or
25 pecuniary interests of the member.

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

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

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

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

21 g. That each member of a local board of education
22 shall attend scheduled meetings and actively participate in
23 school system functions, activities, and training programs
24 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.

1 f. These duties should not be construed to limit or
2 change the duties of local boards of education as found in the
3 Code of Alabama 1975.

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

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

19 (1) Formal censure or reprimand upon an affirmative
20 vote of a majority of the members of the local board of
21 education on which he or she serves. No such action shall be
22 taken unless the member, who is the subject of the proposed
23 action, is provided at least 30 days' advance written notice
24 of the proposed action by the secretary of the local board of
25 education. The notice shall be issued only upon an affirmative

1 vote of a majority of the members of the whole board of
2 education, shall specify the reasons for the proposed action,
3 and shall state that the member shall be afforded an
4 opportunity to respond orally or in writing to the notice
5 before the vote of the local board of education on the
6 proposed action is taken.

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

1 sanction. Upon request, the board member shall be granted a
2 hearing before the State Superintendent of Education, or his
3 or her designee, for the purpose of contesting any proposed
4 sanction.

5 (3) After the close of the investigation, review,
6 and hearing authorized by this section, the State
7 Superintendent of Education may recommend approval of any of
8 the following sanctions to the State Board of Education:

9 a. A formal censure or reprimand of the board
10 member.

11 b. For any board member who fails to meet mandated
12 training and attendance requirements, the member shall be
13 subject to disqualification from eligibility for future
14 appointment, reappointment, or election to any local board of
15 education in the state.

16 c. For a board member whose conduct is found by the
17 State Superintendent of Education to constitute neglect of
18 duty or willful misconduct, the member shall be subject to
19 disqualification from eligibility for future appointment,
20 reappointment, or election to any local board of education in
21 the state.

22 (4) Nothing in this subsection shall be deemed to
23 preclude a negotiated resolution of any action that may be
24 proposed or initiated by the State Superintendent of Education
25 under this section, provided that such resolution is suitably

1 memorialized, executed, made a matter of public record, and is
2 consistent with the purposes of this section.

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

7 (6) No sanction by the State Superintendent of
8 Education, other than as may be imposed by written agreement
9 with the board member, shall be effective until it is approved
10 by majority vote of the State Board of Education.

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

22 (h) This section is cumulative and in addition to
23 any other provision of law governing the training,
24 performance, and accountability of local boards of education

1 and members of local boards of education in the State of
2 Alabama.

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

5 "§16-8-1.

6 "(a) The county board of education shall be composed
7 of five members, who shall be elected by the qualified
8 electors of the county.

9 "(b) County boards of education unless otherwise
10 provided by law may use the provisions of this subsection to
11 establish single member election districts with one board
12 member elected from each district. School boards exercising
13 this option may establish five or seven such districts. Such
14 plan shall be considered only after two weeks public notice
15 has been given, outlining generally the school districts under
16 consideration. The members so elected ~~must,~~ or appointed in
17 the event of a vacancy, shall be residents of the school
18 district ~~in which election is sought~~. Such residency shall
19 have been established at least one year before the general
20 election at which the candidate is to be elected, or appointed
21 in the event of a vacancy. Whenever a member of a county board
22 of education moves his or her domicile from the district he or
23 she represents, he or she shall cease to be a member of the
24 county board of education, and a vacancy shall occur. The
25 member shall provide notice of the move to the secretary of

1 the local board of education before the commencement of
2 business at the first meeting of the local board of education
3 following the move. The boundaries of such single member
4 districts shall be determined by a majority vote of the county
5 board of education. The county board of education shall
6 apportion the districts according to the last federal
7 decennial census for the county utilizing the principle of
8 equal representation. Thereafter, each county board of
9 education choosing to implement single member election
10 districts shall reapportion those districts within six months
11 following the publication of the results of each federal
12 decennial census. ~~They shall be persons of good moral~~
13 ~~character, with at least a fair elementary education, of good~~
14 ~~standing in their respective communities and known for their~~
15 ~~honesty, business ability, public spirit and interest in the~~
16 ~~good of public education. No member of the county board of~~
17 ~~education shall be an employee of said board; provided, that~~
18 ~~in counties having populations of not less than 96,000 nor~~
19 ~~more than 106,000 according to the most recent federal~~
20 ~~decennial census, not more than one classroom teacher employed~~
21 ~~by the board may serve as a board member and also as a~~
22 ~~teacher. Members shall not be required to hold teachers'~~
23 ~~certificates.~~

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

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

5 "(2) Has obtained a high school diploma or its
6 equivalent.

7 "(3) Is not employed by that county board of
8 education, unless serving as a member of the county board of
9 education on the effective date of this Act.

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

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

14 "(6) Has not been convicted of a felony.

15 "\$16-11-2.

16 "(a) The provisions of this chapter shall apply to
17 city boards of education unless otherwise provided by local
18 law pursuant to Amendment 659 to the Constitution of Alabama
19 of 1901, or any other provision of the Constitution of Alabama
20 of 1901.

21 "(b) The general administration and supervision of
22 the public schools and educational interest of each city shall
23 be vested in a city board of education, to be composed of five
24 members who shall be residents of the city, and who shall not
25 be members of the city council or commission. In any Class 4

1 municipality which has adopted a mayor-council form of
2 government pursuant to Chapter 43B (commencing with Section
3 11-43B-1) of Title 11, the city board of education may be
4 composed of seven members.

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

15 ~~"(d) Each member of the city board in cities having~~
16 ~~a population of 300,000 or more according to the last or any~~
17 ~~subsequent federal census shall receive fifty dollars (\$50)~~
18 ~~for each meeting of the board, whether special, regular, or~~
19 ~~executive session, attended by him or her. No member shall~~
20 ~~receive more than one hundred fifty dollars (\$150) during any~~
21 ~~one month. This compensation shall be paid from the city~~
22 ~~school funds in the manner provided for paying out of the city~~
23 ~~school funds.~~

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

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

5 "(2) Has obtained a high school diploma or its
6 equivalent.

7 "(3) Is not employed by that city board of
8 education.

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

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

13 "(6) Has not been convicted of a felony.

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

23 "(e) Any city or town which has had the general
24 administration and supervision of the public schools and
25 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.

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~~_____~~

Speaker of the House of Representatives

Kay Ivey

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 22-MAR-12, as amended and was passed again as amended by Executive Amendment 17-APR-12.
Yeas 98, Nays 0, Abstains 0

Greg Pappas
Clerk

Senate	<u>10-APR-12</u>
Senate	<u>19-APR-12</u>

Passed
Passed, as amended by
Executive Amendment
Yeas 30, Nays 0, Ab-
stains 0

APPROVED Apr 20, 2012
TIME 4:30 p.m.
Robert Bentley
GOVERNOR

Alabama Secretary Of State
Act Num....: 2012-221
Bill Num...: H-431
Recv'd 04/24/12 01:49pmSLF

SPONSOR

Beech
Stanton
Weston
Black
Welford
Scott
Lincher

SPONSORS

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 431

YEAS 93 NAYS 0

GREG PAPPAS, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. _____ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS, Clerk

CONFERENCE COMMITTEE

House Conferees _____

FURTHER SENATE ACTION (OVER)

DATE: 4-03- 2012

RD 1 RFD ED

This Bill was referred to the Standing Committee of the Senate on ED

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) _____ w/sub _____ by a vote of

years 8 nays 0 abstain _____ this 4th day of April 2012
Greg Pappas, Chairperson

DATE: 4-03- 2012

RF FAW RD 2 CAL

DATE: _____ 2012

RE-REFERRED RE-COMMITTED

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 431

YEAS 89 NAYS 0

PATRICK HARRIS, Secretary

DATE: 11/11/2011 RD 3 at 11:00 AM

PASSED PASSED AS AMENDED

YEAS 20 NAYS 0

And was ordered returned forthwith to the H

PATRICK HA

Sec

DATE:

INDEFINITELY POSTPONED YEARS NAYS

DATE:

RECONSIDERED YEARS NAYS

CONFERENCE COMMITTEE

Senate Conferees

This bill having been referred to the Committee on Rules pursuant to Senate Rule 23 is reported Senate for assignment to the Committee on:

This _____ day of _____, 20____

_____, Chairp

Date: _____

Rereferred

Committee: _____

SENATE ACTION

(Continued)