HB431
137052-4
By Representatives Beech, Patterson, Chesteen, Black, England, Scott and Fincher
RFD: Education Policy
First Read: 28-FEB-12
ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

(2) A local board of education is the legally
constituted body that governs a local school system, promotes
student learning, and prepares students to be college and
career ready. A local school board, and not individual board
members, is entrusted with this responsibility. To function
effectively, board members, both individually and
collectively, must operate with the highest degree of
accountability to these responsibilities and their fiduciary
duty to act in the best interests of the local school system,
without self-interest. A board member, as an individual, shall
satisfy minimum qualifications to serve, shall comply with a
code of conduct, and shall be required to participate in
orientation and ongoing training. To meet the goal of
comprehensive board member education and proficiency,
governance standards should be clearly reflected in board
member training with a focus on roles and responsibilities,
student and school performance standards, and the delineation
of each member's role as a public official holding public
trust.

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

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

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

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

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

b. That no decision, action, or vote shall be taken
or made to serve or promote the personal, political, or
pecuniary interests of the member.
c. That each decision, action, and vote shall be based on the interests of the school system as a whole.

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

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

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

g. That each member of a local board of education shall attend scheduled meetings and actively participate in school system functions, activities, and training programs that promote quality boardsmanship unless good cause is shown.
(2) In addition to those duties specifically enumerated in the Code of Alabama 1975, a local board of education shall have all of the following duties:

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

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

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

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

e. To advocate for the needs, resources, and interests of public school students and refer stakeholders and constituents to the local superintendent of education so that these issues can be addressed by school system personnel.
f. These duties should not be construed to limit or change the duties of local boards of education as found in the Code of Alabama 1975.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§16-8-1.

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

"(b) County boards of education unless otherwise
provided by law may use the provisions of this subsection to
establish single member election districts with one board
member elected from each district. School boards exercising
this option may establish five or seven such districts. Such
plan shall be considered only after two weeks public notice
has been given, outlining generally the school districts under
consideration. The members so elected must, or appointed in
the event of a vacancy, shall be residents of the school
district in which election is sought. Such residency shall
have been established at least one year before the general
election at which the candidate is to be elected, or appointed
in the event of a vacancy. Whenever a member of a county board
of education moves his or her domicile from the district he or
she represents, he or she shall cease to be a member of the
county board of education, and a vacancy shall occur. The
member shall provide notice of the move to the secretary of
the local board of education before the commencement of
business at the first meeting of the local board of education
following the move. The boundaries of such single member
districts shall be determined by a majority vote of the county
board of education. The county board of education shall
apportion the districts according to the last federal
decennial census for the county utilizing the principle of
equal representation. Thereafter, each county board of
education choosing to implement single member election
districts shall reapportion those districts within six months
following the publication of the results of each federal
decennial census. They shall be persons of good moral
character, with at least a fair elementary education, of good
standing in their respective communities and known for their
honesty, business ability, public spirit and interest in the
good of public education. No member of the county board of
education shall be an employee of said board, provided, that
in counties having populations of not less than 96,000 nor
more than 166,000 according to the most recent federal
decennial census, not more than one classroom teacher employed
by the board may serve as a board member and also as a
teacher. Members shall not be required to hold teachers'
"(c) No person shall be eligible for election or appointment as a member of a county board of education unless he or she satisfies all of the following qualifications:

"(1) Is a person of good moral character.
"(2) Has obtained a high school diploma or its equivalent.
"(3) Is not employed by that county board of education, unless serving as a member of the county board of education on the effective date of this Act.
"(4) Is not serving on the governing board of a private elementary or secondary educational institution.
"(5) Is not on the National Sex Offender Registry or the state sex offender registry.
"(6) Has not been convicted of a felony.

"§16-11-2.

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

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

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

"(d) Each member of the city board in cities having
a population of 300,000 or more according to the last or any
subsequent federal census shall receive fifty dollars ($50)
for each meeting of the board, whether special, regular, or
executive session, attended by him or her. No member shall
receive more than one hundred fifty dollars ($150) during any
one month. This compensation shall be paid from the city
school funds in the manner provided for paying out of the city
school funds.
"(c) No person shall be eligible for election or
appointment as a member of a city board of education unless he
or she satisfies all of the following qualifications:

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

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

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

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

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

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

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

"(e) Any city or town which has had the general
administration and supervision of the public schools and
educational interests of the city or town vested in a city
board of education for a period of 20 years or more prior to
August 15, 1951, may, except as may be provided by law,
continue to have general administration and supervision of the
public schools and educational interest under a local board of
education regardless of any past or future federal census."

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

Yea 98, Nays 0, Abstains 0

Greg Pappas
Clerk

Senate 10-APR-12
Passed
Passed, as amended by Executive Amendment
Yeas 30, Nays 0, Abstains 0

Senate 19-APR-12

APPROVED: April 20, 2012

Robert Bentley
GOVERNOR

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

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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


GREG PAPPAS, Clerk

CONIQUE BRAN AMEND
CONFERENCE COMMITTEE

House Conferees

CONFERENCE COMMITTEE

RE-REFERRED

RE-COMMITTED

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 93    NAYS 0

PATRICK HARRIS, Secretary

FURTHER SENATE ACTION (OVER)