SB361

By Senator Brewbaker

RFD: Education

First Read: 23-FEB-12
SYNOPSIS: This bill would establish the School Board Governance Improvement Act of 2012.

This bill would provide for legislative intent.

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

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

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

This bill would require the State Board of Education to adopt a model code of conduct for
board members and would require local boards of education to also adopt a model code of conduct.

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

A BILL
TO BE ENTITLED
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 106,000 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' certificates.

"(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.

"(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.

"§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.

"(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.