HB427

147329-1

By Representative Scott

RFD: Education Policy

First Read: 07-MAR-13
SYNOPSIS: This bill would establish the Educational Accountability and Intervention Act of 2013.

This bill would clarify the authority of the State Board of Education, through the State Superintendent of Education, to exercise direct control over the decision making and operational functions of city and county boards of education when such boards are placed under educational intervention by action of the State Board of Education.

This bill would also repeal existing statutes that are in conflict with or are otherwise inconsistent with this bill.

A BILL
TO BE ENTITLED
AN ACT

To establish the Educational Accountability and Intervention Act of 2013; to establish a process by which the
State Board of Education, through the State Superintendent of Education, may exercise direct control over the decision making and operational functions of city and county boards of education through educational intervention; to establish terms and conditions governing the exercise of intervention authority and the scope thereof, the roles and responsibilities of city and county board of education officials under intervention, and the rights of employees of boards of education under intervention; and to repeal existing statutes that are in conflict with or otherwise inconsistent with this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Educational Accountability and Intervention Act of 2013.

Section 2. The purposes of this act include all of the following:

(1) To clarify and confirm the authority of the State Superintendent of Education to assume and exercise direct and comprehensive control over the decision making and operational functions of city and county boards of education when the demonstrated inability of such boards of education to discharge administrative, operational, or instructional functions threatens to deprive students of essential educational services.

(2) To simplify and streamline the exercise of decision making authority during educational intervention by,
among other things, eliminating distinctions between policy making and administrative, academic, operational, financial, and organizational decision making functions performed by city and county boards of education that have impeded attainment of intervention objectives to the detriment of the educational process.

(3) To facilitate the implementation of such organizational reforms and accountability measures as may be necessary to restore and maintain stable and efficient provision of sound and educationally appropriate services at the local level, and to thereby enhance local and statewide support for public education.

Section 3. For the purposes of this act, the following terms shall have the following meanings:

(1) ACADEMIC PERFORMANCE and ACADEMIC CONDITIONS. As used in subdivision (1) of Section 4, may include, but not be limited to, definitions of the same or similar terms and related criteria, circumstances, and conditions identified and described elsewhere in the Code of Alabama 1975. The exercise of intervention authority under this act is subject solely to the substantive and procedural preconditions and requirements set forth herein, the existence of any different, conflicting, or inconsistent provisions elsewhere in the Code of Alabama 1975, notwithstanding.

(2) EDUCATIONAL INTERVENTION and EDUCATIONAL OPERATIONS. All policy making, administrative, academic, operational, financial, and organizational decisions and
functions that have a direct or indirect bearing on the
development or provision of academic, extracurricular, and
support services to students served by city and county boards
of education.

(3) PRIORITY SCHOOL. A school that has a majority of
its students scoring one or more grade levels below the
prescribed state-adopted student assessments or that is
designated as a priority school by the State Superintendent of
Education.

Section 4. The State Board of Education may
ter in the educational operations of a city or county
board of education and thereby assume general and direct
control over all decision making and operational functions of
the city or county board of education under and subject to the
following terms and conditions:

(1) If the State Superintendent of Education
determines that a majority of the schools in the system are
priority schools, or the system is not in compliance with
Chapter 13A, Title 16, Code of Alabama 1975, or the
accreditation status of the system or a majority of the
schools in the system has been placed on probation, or
suspended, or revoked, or if any other formal disciplinary
action has been ordered by the accrediting authority, the
State Superintendent of Education shall issue a written notice
to the local superintendent of education and the presiding
officer of the city or county board of education to show cause
why educational intervention should not be implemented. The
notice shall specify the deficiencies within the operation of the city or county board of education, the steps that are required to be taken to correct the deficiencies, and a reasonable timetable for completing the corrective measures, which timetable may be extended by the State Superintendent of Education. The notice shall require that the recipient board provide a specific written response to the notice, which response shall be filed with the State Superintendent of Education not less than 21 calendar days after the date the notice was issued, unless the time for filing the response is extended by the State Superintendent of Education. In its response, the city or county board of education may offer reasons why intervention is not warranted or, in the alternative, a specific plan and timetable for correcting the deficiencies identified in the notice to show cause.

(2) If, based on the response of the city or county board of education to the notice to show cause or other relevant circumstances and considerations, the State Superintendent of Education determines that educational intervention is not warranted or should be deferred, the city or county board of education shall be notified of such determination.

(3) If, in light of the response of the city or county board of education, the State Superintendent of Education concludes that educational intervention is nonetheless warranted, but that the plan proposed by the city or county board of education for correcting the deficiencies
set forth in the notice is acceptable, with or without such modifications as may be required by the State Superintendent of Education, the city or county board of education shall be notified of such determination. The plan, with any modifications thereto that may be required by the State Superintendent of Education, shall thereafter be implemented according to its terms.

(4) If the approved plan is not implemented or if the response to the notice to show cause does not include a plan that, in the judgment of the State Superintendent of Education, adequately addresses the deficiencies that prompted issuance of the notice, the State Superintendent of Education shall request in writing that the State Board of Education approve a resolution authorizing the State Superintendent of Education to intervene in the operations of the city or county board of education. The request of the State Superintendent of Education shall include a description of the conditions and circumstances supporting the request, a copy of the response of the city or county board of education to the notice to show cause why educational intervention should not be implemented, an explanation of why the response of the city or county board of education to the notice to show cause does not adequately address the deficiencies identified in the notice, and a proposed plan for correcting the deficiencies. The city or county board of education that is the subject of the request shall be notified thereof by the State Superintendent of Education and shall be provided with a copy of the request of
the State Superintendent of Education and any material accompanying or submitted in support of the request. Before any vote of the State Board of Education on the request, the city or county board of education that is the subject of the request shall be afforded an opportunity to demonstrate in writing to the State Board of Education why such action is not warranted or should not be approved and to appear before the State Board of Education for such purpose prior to a vote being taken on the request for educational intervention.

(5) The State Board of Education shall authorize intervention under this act on the basis of the deficiencies and supporting data cited in support of the request for intervention authority of the State Superintendent of Education and upon a finding that the city or county board of education has demonstrated an unwillingness or inability to voluntarily comply with the standards provided in subdivision (1) and the requirements specified in the request of the State Superintendent of Education. The resolution by which educational intervention is authorized shall describe with reasonable specificity the criteria or conditions that are required to be satisfied by the city or county board of education in order to be released from intervention. If the State Board of Education approves a resolution authorizing educational intervention, the State Superintendent of Education may exercise plenary authority to make such decisions or take such actions as he or she reasonably deems necessary to correct the deficiencies that led to the request
for approval of intervention or that may be discovered in the
exercise of intervention authority. Educational intervention
authority may be exercised directly by the State
Superintendent of Education or indirectly through his or her
designee acting as a chief administrative officer who shall be
appointed by, report to, and serve in such capacity at the
pleasure and under the supervision of the State Superintendent
of Education. The chief administrative officer may act on
behalf of the State Superintendent of Education for all
purposes under this act. If the State Superintendent of
Education appoints a chief administrative officer, that
officer shall be designated by name in a resolution presented
to the State Board of Education.

(6) While a city or county board of education is
operating under educational intervention, the State
Superintendent of Education or the chief administrative
officer shall have the power and authority to act for and on
behalf of the city or county board of education and its
superintendent in all matters and for all purposes under the
Code of Alabama 1975. No decision, action, or undertaking made
or approved by the State Superintendent of Education or chief
administrative officer shall require the separate
recommendation, concurrence, or approval of any city or county
board of education or any official thereof in order to be
deemed final, valid, or enforceable. While under educational
intervention, a city or county board of education, with the
approval of the State Superintendent of Education or the chief
administrative officer, may meet according to a schedule and agenda that are approved in advance by the State Superintendent of Education or the chief administrative officer and are subject to modification only at the direction or with the express approval of the State Superintendent of Education or the chief administrative officer. Otherwise, the city or county board of education shall meet only at the call of and for specific purposes approved by the State Superintendent of Education or the chief administrative officer. While under educational intervention, city and county boards of education and their officials and employees shall serve under the supervision and direction of the State Superintendent of Education or the chief administrative officer. The State Superintendent of Education or the chief administrative officer may delegate to the employees of the State Department of Education or city or county board of education officials or employees such administrative authority and responsibilities as they may deem necessary to ensure the timely, practical, and efficient execution of normal educational functions, and, at the expense of the city or county board of education, may engage and direct the activities of such consultants, specialists, or employees as they deem necessary to achieve the objectives of the intervention.

(7) Personnel actions that the State Superintendent of Education or the chief administrative officer deem necessary and appropriate to the attainment of intervention
objectives may be implemented directly by such officials. Such actions shall be subject to otherwise generally applicable statutory, regulatory, or policy-based prerequisites or procedures, provided that any such personnel actions affecting employees who have attained tenure or nonprobationary status under Alabama law shall be conducted pursuant to Chapter 24C, Title 16, Code of Alabama 1975, the Students First Act of 2011, except that the State Superintendent of Education shall issue all notices required of the local superintendent of education to the employee under that act and the hearing of first instance shall be conducted by a hearing officer appointed pursuant to subsection (g) of Section 16-24C-6, Code of Alabama 1975. Intervention-related personnel actions shall also be described by the State Superintendent of Education or the chief administrative officer in a written report that shall include the specific personnel actions to be taken and an explanation of how such actions serve the attainment of one or more intervention objectives. At the direction of the State Superintendent of Education or the chief administrative officer, and as soon as practicable following its issuance, the report shall be entered into the minutes of the city or county board of education and the nature of individual personnel actions shall be suitably memorialized in the personnel files of affected employees and in databases or other records maintained for such purposes by the city or county board of education. No delay or irregularity in the transmittal or recordation of the foregoing report or related
data shall invalidate or impair the timely implementation of
targeted personnel actions as prescribed by the
State Superintendent of Education or the chief administrative
officer. Personnel actions that are deemed advisable or
appropriate but that are not identified as related to the
attainment of intervention objectives by the State
Superintendent of Education or the chief administrative
officer may be initiated and acted on by city or county board
officials. Such actions shall be taken in accordance with
Chapter 24C, Title 16, Code of Alabama 1975, the Students
First Act of 2011, or other generally applicable statutory
requirements, policies, and procedures if the proposed actions
would otherwise be subject to such statutes, policies, and
procedures and if they are first authorized by the State
Superintendent of Education or the chief administrative
officer.

(8) The State Superintendent of Education shall
report to the State Board of Education regarding the status of
intervention in the affected city or county system
periodically or at the request of the State Board of Education
and, in any event, not less than once every six months.

(9) A city or county board of education may be
released from educational intervention upon the adoption of a
resolution by the State Board of Education authorizing such
action. The resolution shall be considered by the State Board
of Education upon the written recommendation of the State
Superintendent of Education or upon presentation of a written
petition requesting such action duly executed by at least
two-thirds of the members of the city or county board of
education that is operating under educational intervention.
The petition shall set forth the grounds on which the petition
is based and may include any evidence that may be relevant to
consideration by the State Board of Education. Representatives
of the city or county board of education may also be heard in
connection with the petition, but no vote shall be taken on
the petition by the State Board of Education without first
soliciting the views of the State Superintendent of Education
regarding the merits of the petition.

Section 5. The State Superintendent of Education may
develop and issue regulations to implement the requirements of
this act.

Section 6. This act shall be construed to do all of
the following:

(1) Provide the State Superintendent of Education or
the chief administrative officer with broad discretion and
complete authority to make, direct, implement, and enforce
decisions, actions, and measures which, in his or her
judgment, are necessary and appropriate to the attainment of
the objectives of educational intervention and to accord the
fullest measure of deference to decisions and actions made by
such officials in furtherance of intervention goals and
objectives.
(2) Eliminate unnecessary delay in the implementation of measures designed to attain intervention goals and objectives.

(3) Protect vested and constitutionally based employment rights through appropriate procedural safeguards without impairing attainment of the goals and purposes of educational intervention or of this act.

(4) Be cumulative, supplemental, and complementary to other legislation that confers authority on the State Board of Education and the State Superintendent of Education to exercise control and supervision over the decision making and operational functions of city and county boards of education, and not to limit the scope, extent, or exercise of that authority.

Section 7. Any city or county board of education which, on the effective date of this act, is operating under any form of intervention by virtue of a statute that is repealed or superseded by this act shall remain subject to the terms and provisions of the statute and the authority conferred thereby on the State Board of Education, State Superintendent of Education, and their designees until the city or county board of education is released from intervention.

Section 8. The various sections and provisions of this act are severable, and should any part, provision, section, or subsection hereof be held unlawful, invalid, or unenforceable by any court of competent jurisdiction, such
holding shall not impair, invalidate, or otherwise affect the
terms or provisions of the act that are not the subject
thereof or invalidated thereby.

Section 9. All laws or parts of laws which conflict
with this act are repealed.

Section 10. This act shall become effective
immediately upon its passage and approval by the Governor or
its otherwise becoming law.