

SB9

By Senator Holtzclaw

RFD Finance and Taxation Education

Rd 1 05-FEB-13

SYNOPSIS: Under existing law, the Flexible School Calendar Act of 2012 requires each local board of education to establish an academic school calendar, beginning with the 2012-2013 school year and ending with the last day of the third month of the 2013-2014 school year, with the first day of instruction for students no earlier than the Monday two calendar weeks before Labor Day, unless August 31 is a Monday, then on Monday, August 17, and the last day of instruction for students shall be no later than the Friday immediately before Memorial Day.

This bill would allow a local board of education to opt out of the temporary academic school calendar parameters by providing written notice to the State Superintendent of Education.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

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

A BILL
TO BE ENTITLED
AN ACT

To amend Section 16-13-231, Code of Alabama 1975, as amended by Act 2012-482, 2012 Regular Session (Acts 2012, p. ____), the Flexible School Calendar Act of 2012; to allow a city or county board of education to opt out of the temporary academic school calendar parameters by providing written notice to the State Superintendent of Education; and in connection therewith to have as its purpose or effect the requirement of a new or increased expenditure of local funds; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution

of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

§16-13-231.

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

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

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

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

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

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

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

"c.1. Except as otherwise provided in this paragraph, the local board of education shall provide a school term of at least 180 full instructional days, or the hourly equivalent thereof, beginning with school year 2012-2013 and ending with the last day of the third month of the 2013-2014

school year, or such part of that school term as can be maintained by using funds available and as defined by regulations of the State Board of Education. The local academic school calendar shall be annually established by the local board of education, within the parameters of subparagraph 3. In case the local board of education fails to operate any schools the minimum 180 full instructional day term, or the hourly equivalent thereof, or the minimum term as defined by the State Board of Education, the Foundation Program allowances of the local board of education shall be computed only for the actual period the schools are in session that school year.

"2. In extreme circumstances involving natural occurrences, health-related occurrences, or other extenuating circumstances that result in the cancellation of an instructional day, a local board of education may submit a plan for the approval of the State Superintendent of Education to replace cancelled instructional days by adjusting the school calendar to extend the hours of actual teaching time on specified instructional days. At any time the Governor declares a state of emergency for any part of the state, any affected school system that is closed as a result and loses student days or employee days, or both, may appeal to the State Superintendent of Education for relief in fulfilling the local school calendar with respect to student days or employee days, or both, with no loss of income to employees.

"3. Beginning with the 2012-2013 school year and ending with the last day of the third month of the 2013-2014 school year, a local board of education, in providing the minimum required number of instructional days or hours, shall have greater flexibility in establishing the school calendar by adjusting the days or extending the hours of actual teaching or instructional time provided on specified instructional days for the schools under the jurisdiction of the local board. The academic school calendar, established by the local board of education, shall include the minimum required number of instructional days or hours, with the first day of instruction for students no earlier than the Monday two calendar weeks before Labor Day, unless August 31 is a Monday, then on Monday, August 17, and the last day of instruction for students shall be no later than the Friday immediately before Memorial Day. A local board of education desiring to have its first day of instruction earlier than the Monday two calendar weeks before Labor Day or its last day of instruction for students later than the Friday immediately before Memorial Day may opt out of the temporary academic school calendar parameters provided in this subparagraph by providing written notice to the State Superintendent of Education.

"d. The local board of education shall expend funds for teachers' salaries in accordance with a salary schedule adopted by the local board of education and approved by the State Superintendent of Education. The salary schedule shall be at least 100 percent of those salary amounts specified in the State Minimum Salary Schedule by cell.

"The local board of education shall allocate state and local Foundation Program funds to each school in an equitable manner, based on the needs of the students and the schools, as reflected in the current year's actual student populations, including at-risk students, students receiving special education services, and students enrolled in vocational/technical educational programs. The local board of education shall report annually to the State Board of Education on how all state and local funds for public education, including Foundation Program funds and capital outlay funds, have been allocated to each of its schools or area vocational centers.

"e. The local board of education shall submit to the State Superintendent of Education, under the regulations of the State Board of Education, the following:

"1. A proposed building program which sets out in detail the location of all present and proposed buildings; which indicates proposed educational centers and grades to be taught at these centers and which provides schools for all children of the local board of education.

"2. Except for those city boards of education not maintaining a transportation system, a proposed transportation program showing the proposed routing of buses and the condition of all roads to be used for transportation.

"3. A proposed professional development program which sets out in detail the professional development needs of employees of the local board of education.

"4. A proposed technology program which sets out in detail the proposed expenditures of technology funds.

"5. A proposed program for the provision of services to students with disabilities and gifted students in compliance with applicable state and federal laws.

"6. A proposed program for the provision of vocational educational services in compliance with applicable state and federal laws.

"7. A proposed program for the provision of educational services to at-risk students in compliance with applicable state and federal laws. The proposed program for at-risk students shall include the provision that all funds allocated shall be spent for at-risk students.

"f. The local board of education shall meet such other standards as may be set up by the State Board of Education to promote improved educational opportunity and provide better schools.

"(2) DETERMINING COST OF FOUNDATION PROGRAM. In determining the cost of the Foundation Program, the Legislature, based on the recommendation of the State Board of Education, shall proceed to find the following allowable costs for each local board of education: Teachers' salaries, fringe benefits, classroom instructional support, and other current expense. The rate per employee set by the Legislature for teachers' retirement and employees' health insurance shall be in effect for the entire fiscal year and shall not be increased by the Teachers' Retirement System or the Public Education Employees' Health Insurance Board, except by further action of the Legislature.

"a. The Foundation Program allowance for salaries of teachers shall be determined as follows: The number of teacher units allowed in Section 16-13-232 for each local board of education shall be multiplied by the amount or amounts per teacher unit, which amounts shall be based on the average salaries for each major classification required by the operation of the State Minimum Salary Schedule established by the Legislature in the Education Trust Fund appropriation bill and adopted by the State Board of Education. In recommending to the Governor and the Legislature the State Minimum Salary Schedule the State Board of Education shall give due

consideration to degree level, certification, and public education experience. Any teacher, including, but not limited to, a vocational education teacher, currently under contract in excess of 187 days shall not have the term or salary of his or her contract reduced as a result of this article.

"b. The Foundation Program allowance for fringe benefits shall be determined by multiplying a uniform percentage times the amount of teachers' salaries allowed in paragraph a. above or by multiplying a fixed rate depending on the type of fringe benefit. The fringe benefits allowances shall include amounts for the employer's contribution for teachers' retirement, health insurance, Social Security, Medicare, unemployment compensation, personal leave, and sick leave. The fringe benefits allowance may include allowances for other fringe benefits as may be approved by the State Legislature. The State Legislature shall seek the input and advice of appropriate agencies and individuals in setting allowances. The Teachers' Retirement System and the Public Education Employees' Health Insurance Board shall recommend to the Legislature, on or before the first legislative day of each regular session of the Legislature, the rate for the following fiscal year. The Legislature shall set the rate in the annual appropriation bill.

"c. The Foundation Program allowance for classroom instructional support shall be determined by multiplying a uniform amount times the number of teacher units allowed in Section 16-13-232. The uniform amount shall include allowances for library enhancement, classroom materials and supplies, professional development, and technology. The library enhancement appropriation shall be for K-12 Public School Library/Media Centers and is an absolute appropriation. Other expenditures may include book binding, repair, CD Roms, computer software, computer equipment, cataloging, audio-visual materials, newspapers, magazines, recordings, and video tapes. The uniform amount may include allowances for other classroom instructional support as may be approved by the State Board of Education. The Foundation Program allowance for classroom instructional support shall also include an allowance for textbooks which shall be determined on a per pupil basis. The number of pupils shall be determined by the number of pupils in average daily membership during the first 20 scholastic days after Labor Day of the preceding school year. The State Board of Education shall recommend to the Governor the amount for each cost factor included in classroom instructional support on or before December 1 of the current fiscal year for the ensuing fiscal year.

"d. The Foundation Program allowance for other current expense shall be determined by multiplying a uniform amount by the number of earned units. The uniform amount shall be recommended by the State Board of Education to the Governor on or before December 1 of the current fiscal year for the ensuing fiscal year.

"e. The State Board of Education may cause, from time to time, a study of allowances for teachers' salaries, fringe benefits, classroom instructional support, and other current expense of local boards of education to be conducted and, based on the results of the study, may propose any necessary changes to the Governor and Legislature.

"f. The total cost of the Foundation Program for any local board of education shall be the total allowed for teachers' salaries, for fringe benefits, for classroom instructional support, and for other current expense. The allowances herein to the local boards of education shall be expended subject to all applicable laws, rules, and regulations; however, the total funds calculated in the

total cost of the Foundation Program for teachers' salaries shall be expended for salaries within the instructional program.

"(3) DETERMINING FUNDS AVAILABLE TO PROVIDE FOUNDATION PROGRAM.

"a. The funds available to meet the cost of the Foundation Program shall be appropriated by the Legislature taking into consideration an amount of local effort required on the part of each local board of education. The required local effort charged against each local board of education for its share of the cost of the Foundation Program shall be as follows:

"1. For the 1995-96 fiscal year, the equivalent of five mills of local school tax district ad valorem tax as reported pursuant to subsection (b)(1)a.

"2. For the 1996-97 fiscal year, the equivalent of seven and one-half mills of local school tax district ad valorem tax as reported pursuant to subsection (b)(1)a.

"3. For the 1997-98 fiscal year, the equivalent of ten mills of local school tax district ad valorem tax as reported pursuant to subsection (b)(1)a.

"4. For each fiscal year thereafter, the equivalent of ten mills of local school tax district ad valorem tax as reported pursuant to subsection (b)(1)a.

"b. After calculating the total cost of the Foundation Program for each local board of education, the state allocation from the Education Trust Fund is calculated by subtracting the local effort required by this section from the total cost. Although the cost of the Foundation Program is calculated for each school, the one sum allocation for each local board of education shall flow monthly to the local board of education. The state funds for the Foundation Program shall be allotted by the State Board of Education consistent with State Board of Education rules and regulations."

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

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

Education

Flexible School Calendar Act

Foundation Program

Board of Education, City

Board of Education, County

Board of Education, State

Superintendent of Education, State

Acts Amended

Code Amended