

1 HB353
2 150690-1
3 By Representative Hurst
4 RFD: Education Policy
5 First Read: 23-JAN-14

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8 SYNOPSIS: Under existing law, the Foundation Program
9 allowance for classroom instructional support is
10 determined by the number of pupils in average daily
11 membership during the first 20 scholastic days
12 after Labor Day of the preceding school year.

13 This bill would specify that average daily
14 membership be determined during the first 20
15 scholastic days of the preceding school year for
16 the particular school.

17 Amendment 621 of the Constitution of Alabama
18 of 1901, now appearing as Section 111.05 of the
19 Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, prohibits a general
21 law whose purpose or effect would be to require a
22 new or increased expenditure of local funds from
23 becoming effective with regard to a local
24 governmental entity without enactment by a 2/3 vote
25 unless: it comes within one of a number of
26 specified exceptions; it is approved by the
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

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

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Section 16-13-231, Code of Alabama 1975, as
16 amended by Act 2012-482, 2012 Regular Session (Acts 2012),
17 relating to the Foundation Program; to specify that average
18 daily membership be determined during the first 20 scholastic
19 days of the preceding school year for the particular school;
20 and in connection therewith would have as its purpose or
21 effect the requirement of a new or increased expenditure of
22 local funds within the meaning of Amendment 621 of the
23 Constitution of Alabama of 1901, now appearing as Section
24 111.05 of the Official Recompilation of the Constitution of
25 Alabama of 1901, as amended.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 16-13-231 of the Code of Alabama
2 1975, as amended by Act 2012-482, 2012 Regular Session (Acts
3 2012), is amended to read as follows:

4 "§16-13-231.

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

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

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

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

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

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

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

21 "c. 1. Except as otherwise provided in this
22 paragraph, the local board of education shall provide a school
23 term of at least 180 full instructional days, or the hourly
24 equivalent thereof, beginning with school year 2012-2013 and
25 ending with the last day of the third month of the 2013-2014
26 school year, or such part of that school term as can be
27 maintained by using funds available and as defined by

1 regulations of the State Board of Education. The local
2 academic school calendar shall be annually established by the
3 local board of education, within the parameters of
4 subparagraph 3. In case the local board of education fails to
5 operate any schools the minimum 180 full instructional day
6 term, or the hourly equivalent thereof, or the minimum term as
7 defined by the State Board of Education, the Foundation
8 Program allowances of the local board of education shall be
9 computed only for the actual period the schools are in session
10 that school year.

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

25 "3. Beginning with the 2012-2013 school year and
26 ending with the last day of the third month of the 2013-2014
27 school year, a local board of education, in providing the

1 minimum required number of instructional days or hours, shall
2 have greater flexibility in establishing the school calendar
3 by adjusting the days or extending the hours of actual
4 teaching or instructional time provided on specified
5 instructional days for the schools under the jurisdiction of
6 the local board. The academic school calendar, established by
7 the local board of education, shall include the minimum
8 required number of instructional days or hours, with the first
9 day of instruction for students no earlier than the Monday two
10 calendar weeks before Labor Day, unless August 31 is a Monday,
11 then on Monday, August 17, and the last day of instruction for
12 students shall be no later than the Friday immediately before
13 Memorial Day.

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

20 "The local board of education shall allocate state
21 and local Foundation Program funds to each school in an
22 equitable manner, based on the needs of the students and the
23 schools, as reflected in the current year's actual student
24 populations, including at-risk students, students receiving
25 special education services, and students enrolled in
26 vocational/technical educational programs. The local board of
27 education shall report annually to the State Board of

1 Education on how all state and local funds for public
2 education, including Foundation Program funds and capital
3 outlay funds, have been allocated to each of its schools or
4 area vocational centers.

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

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

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

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

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

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

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

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

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

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

22 "a. The Foundation Program allowance for salaries of
23 teachers shall be determined as follows: The number of teacher
24 units allowed in Section 16-13-232 for each local board of
25 education shall be multiplied by the amount or amounts per
26 teacher unit, which amounts shall be based on the average
27 salaries for each major classification required by the

1 operation of the State Minimum Salary Schedule established by
2 the Legislature in the Education Trust Fund appropriation bill
3 and adopted by the State Board of Education. In recommending
4 to the Governor and the Legislature the State Minimum Salary
5 Schedule the State Board of Education shall give due
6 consideration to degree level, certification, and public
7 education experience. Any teacher, including, but not limited
8 to, a vocational education teacher, currently under contract
9 in excess of 187 days shall not have the term or salary of his
10 or her contract reduced as a result of this article.

11 "b. The Foundation Program allowance for fringe
12 benefits shall be determined by multiplying a uniform
13 percentage times the amount of teachers' salaries allowed in
14 paragraph a. above or by multiplying a fixed rate depending on
15 the type of fringe benefit. The fringe benefits allowances
16 shall include amounts for the employer's contribution for
17 teachers' retirement, health insurance, Social Security,
18 Medicare, unemployment compensation, personal leave, and sick
19 leave. The fringe benefits allowance may include allowances
20 for other fringe benefits as may be approved by the State
21 Legislature. The State Legislature shall seek the input and
22 advice of appropriate agencies and individuals in setting
23 allowances. The Teachers' Retirement System and the Public
24 Education Employees' Health Insurance Board shall recommend to
25 the Legislature, on or before the first legislative day of
26 each regular session of the Legislature, the rate for the

1 following fiscal year. The Legislature shall set the rate in
2 the annual appropriation bill.

3 "c. The Foundation Program allowance for classroom
4 instructional support shall be determined by multiplying a
5 uniform amount times the number of teacher units allowed in
6 Section 16-13-232. The uniform amount shall include allowances
7 for library enhancement, classroom materials and supplies,
8 professional development, and technology. The library
9 enhancement appropriation shall be for K-12 Public School
10 Library/Media Centers and is an absolute appropriation. Other
11 expenditures may include book binding, repair, CD Roms,
12 computer software, computer equipment, cataloging,
13 audio-visual materials, newspapers, magazines, recordings, and
14 video tapes. The uniform amount may include allowances for
15 other classroom instructional support as may be approved by
16 the State Board of Education. The Foundation Program allowance
17 for classroom instructional support shall also include an
18 allowance for textbooks which shall be determined on a per
19 pupil basis. The number of pupils shall be determined by the
20 number of pupils in average daily membership during the first
21 20 scholastic days ~~after Labor Day~~ of the preceding school
22 year for the particular school. The State Board of Education
23 shall recommend to the Governor the amount for each cost
24 factor included in classroom instructional support on or
25 before December 1 of the current fiscal year for the ensuing
26 fiscal year.

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

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

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

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

24 "a. The funds available to meet the cost of the
25 Foundation Program shall be appropriated by the Legislature
26 taking into consideration an amount of local effort required
27 on the part of each local board of education. The required

1 local effort charged against each local board of education for
2 its share of the cost of the Foundation Program shall be as
3 follows:

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

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

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

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

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

26 "(c) No local board of education may reduce the
27 amount in any cell of any employee salary schedule, or

1 otherwise reduce the compensation of any employee, based upon
2 the amendments to this section made by Act 2012-482 or upon
3 any future modification to its calendar or schedule pursuant
4 to the amendments to this section made by Act 2012-482. Salary
5 appropriations in all future Education Trust Fund budgets
6 shall be based upon the number of contract days allocated by
7 the Legislature, or the hourly equivalent thereof."

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

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