

1 HB374
2 189936-1
3 By Representative Collins
4 RFD: Education Policy
5 First Read: 06-FEB-18

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8 SYNOPSIS: Under existing law, the Private School
9 Licensure program for postsecondary proprietary
10 schools is under the purview of the Alabama
11 Community College System.

12 This bill would transfer the program from
13 the Alabama Community College System to the Alabama
14 Commission on Higher Education.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To add Section 16-5-16 to the Code of Alabama 1975,
21 and to amend Section 16-60-115, Code of Alabama 1975; relating
22 to the Private School Licensure program for postsecondary
23 proprietary schools; to transfer the program from the Alabama
24 Community College System to the Alabama Commission on Higher
25 Education; to provide for the personnel and their rights, due
26 process, and benefits; to provide for the transfer of funding,
27 duties, powers, and functions of the program; to require the

1 Alabama Community College System to coordinate the transfer of
2 the program services; and to require that the Chancellor of
3 the Alabama Community College System and the Executive
4 Director of the Alabama Commission on Higher Education to
5 coordinate actions.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 16-5-16 is added to the Code of
8 Alabama 1975, to read as follows:

9 (a) All powers, duties, responsibilities, and
10 functions of, and all related records, property, equipment of,
11 and all rights, obligations of, and unexpended balances and
12 projected appropriations including federal and other funds or
13 allocations for the fiscal year ending September 30, 2019, of
14 the Private School Licensure program for postsecondary
15 proprietary schools of the Alabama Community College System
16 shall be transferred by the Alabama Community College System
17 to the Alabama Commission on Higher Education.

18 (b) All funds appropriated or available to the
19 Alabama Community College System for the fiscal year ending
20 September 30, 2019, for the Private School Licensure program
21 for postsecondary proprietary schools and components of that
22 program shall be transferred to the commission for its use
23 during that fiscal year under the same terms and conditions as
24 specified for those funds in any appropriation bill, or as
25 otherwise specified by law.

26 (c) All full-time employees of the Private School
27 Licensure program for postsecondary proprietary schools, and

1 the components of that program, shall be transferred to the
2 commission on the date of implementation of this section as
3 provided in subsection (f) to a full-time employee
4 classification commensurate with the level of each respective
5 employee classification at the commission on the date prior to
6 the transfer.

7 (d) Any full-time employee transferred under this
8 section shall be entitled to all other rights, benefits, and
9 due process to which he or she was entitled before the passage
10 of this section, including, but not limited to, the right to
11 accumulate leave, participate in the Teachers' Retirement
12 System, and consideration for annual salary increases. No
13 employee shall be demoted or have his or her salary, position,
14 or status adversely affected due to his or her transfer or any
15 other provision of this section.

16 (e) Upon the vacating of any of the employee
17 classifications designated under subsection (c), by any such
18 incumbents, the classifications shall cease to be
19 automatically considered full-time nonprobationary positions,
20 and persons to fill the positions thereafter shall serve at
21 the pleasure of the executive director of the commission,
22 having the same rights, benefits, terms, conditions, and due
23 process to which other employees of the commission are
24 entitled.

25 (f) This section shall be implemented on a date
26 agreed to by the Chancellor and the executive director of the
27 commission, in writing, signed by both parts, certifying that

1 they have jointly developed an implementation plan for the
2 orderly transfer of authority, powers, duties, property,
3 records and personnel as required by this section.

4 (g) The executive director of the commission shall
5 direct all matters regarding the Private School Licensure
6 program for postsecondary proprietary schools in conformance
7 with state and federal law and the policies of the commission.
8 All responsibilities related to the Private School Licensure
9 program for postsecondary proprietary schools previously
10 vested with the Chancellor shall be vested with the executive
11 director of the commission.

12 (h) The Chancellor and the executive director of the
13 commission shall take all administrative action, including the
14 transfer of funds, appropriate and necessary to carry out the
15 intent and purpose of this section.

16 Section 2. Section 16-60-115 of the Code of Alabama
17 1975, is amended to read as follows:

18 "§16-60-115.

19 "(a) Except as provided in subsection (b):

20 "~~(a)~~ (1) All powers, duties, responsibilities, and
21 functions of, and all related records, property, equipment of,
22 and all rights, obligations of, and unexpended balances of
23 appropriations including federal and other funds or
24 allocations for the fiscal year ending September 30, 2002, of
25 the Adult Education program, the State Approving Agency
26 program, and the Private School Licensure program for
27 postsecondary proprietary schools of the State Department of

1 Education shall be transferred by the State Board of Education
2 to the Postsecondary Education Department. Commencing on May
3 12, 2015, all authority vested in the Postsecondary Education
4 Department pursuant to this subsection shall be transferred
5 from the Postsecondary Education Department to the Alabama
6 Community College System pursuant to Section 16-60-110.1.

7 "~~(b)~~ (2) All funds appropriated to the State
8 Department of Education for the fiscal year ending September
9 30, 2003, for the Adult Education program and the components
10 of that program, the State Approving Agency program and the
11 components of that program, and the Private School Licensure
12 program and the components of that program for postsecondary
13 proprietary schools, shall be transferred to the Postsecondary
14 Education Department for its use during that fiscal year under
15 the same terms and conditions as specified for those funds in
16 any appropriation bill, or as otherwise specified by law.

17 Commencing on May 12, 2015, all authority vested in the
18 Postsecondary Education Department pursuant to this subsection
19 shall be transferred from the Postsecondary Education
20 Department to the Alabama Community College System pursuant to
21 Section 16-60-110.1.

22 "~~(c)~~ (3) All full-time nonprobationary employees of
23 the Adult Education program and the components of that
24 program, the State Approving Agency program and the components
25 of that program, and the Private School Licensure program and
26 the components of that program for postsecondary proprietary
27 schools, shall be transferred to the Postsecondary Education

1 Department on the effective date of this section to a
2 full-time nonprobationary employee classification commensurate
3 with the level of each respective employee classification at
4 the Postsecondary Education Department on the date prior to
5 the transfer. Commencing on May 12, 2015, all employees and
6 programs transferred to the Postsecondary Education Department
7 pursuant to this subsection shall be transferred from the
8 Postsecondary Education Department to the Alabama Community
9 College System pursuant to Section 16-60-110.1.

10 "~~(d)~~ (4) Any full-time nonprobationary employee
11 transferred under this section from the Postsecondary
12 Education Department to the Alabama Community College System
13 shall be entitled to the due process rights provided by the
14 State Personnel Board on May 12, 2015, and also to all other
15 rights, benefits, and due process to which ~~they were~~ he or she
16 was entitled before May 12, 2015, and pursuant to Section
17 16-60-110.1, including, but not limited to, the right to
18 accumulate leave, participate in the Teachers' Retirement
19 System, and consideration for annual salary increases. No
20 employee shall be demoted or have his or her salary, position,
21 or status adversely affected due to his or her transfer or any
22 other provision of this section.

23 "~~(e)~~ (5) Upon the vacating of any of the employee
24 classifications designated under ~~subsection (c)~~ subdivision
25 (3), by any ~~such~~ incumbents, ~~such~~ the classifications shall
26 cease to be automatically considered full-time nonprobationary
27 positions and persons to fill such positions thereafter shall

1 serve at the pleasure of the Chancellor of the Alabama
2 Community College System, having the same rights, benefits,
3 terms, conditions, and due process to which other employees of
4 the Alabama Community College System are entitled.

5 ~~"(f)~~ (6) An employee of the community and technical
6 colleges shall be as defined in subdivision (1) of Section
7 16-25A-1.

8 ~~"(g)~~ (7) An employee of the Alabama Community College
9 System shall be as defined in subdivision (3) of Section
10 16-25-1.

11 ~~"(h)~~ (8) The State Board of Education shall
12 coordinate the transfer. The State Superintendent of
13 Education, the State Department of Education, and the
14 Postsecondary Education Department shall assist the Chancellor
15 and the Board of Trustees of the Alabama Community College
16 System with the highest degree of cooperation to carry out the
17 intent and purpose of this section and to achieve an orderly
18 transition.

19 ~~"(i)~~ (9) The Chancellor of the Alabama Community
20 College System shall direct all matters involving the Adult
21 Education program, the State Approving Agency program, and the
22 Private School Licensure program for postsecondary proprietary
23 schools in conformance with state and federal law and the
24 policies of the Alabama Community College System. All
25 responsibilities related to the Adult Education program, the
26 State Approving Agency program, and the Private School
27 Licensure program for postsecondary proprietary schools

1 previously vested with the Chancellor of the Postsecondary
2 Education Department shall be vested with the Chancellor of
3 the Alabama Community College System.

4 "~~(j)~~ (10) The State Approving Agency program shall be
5 transferred from the Postsecondary Education Department to the
6 Alabama Community College System pursuant to this section.

7 "~~(k)~~ (11) The Private School Licensure program for
8 postsecondary proprietary schools shall be transferred from
9 the Postsecondary Education Department to the Alabama
10 Community College System pursuant to this section.

11 "~~(l)~~ (12) The State Board of Education and the State
12 Superintendent of Education shall take all administrative
13 action, including the transfer of funds, appropriate and
14 necessary to carry out the intent and purpose of this section.

15 "(b) Commencing on the effective date of the act
16 adding this subsection, the Private School Licensure program
17 for postsecondary proprietary schools shall be transferred by
18 the Alabama Community College System to the Alabama Commission
19 on Higher Education pursuant to Section 16-5-16."

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