

1 HB42
2 134280-2
3 By Representative Merrill
4 RFD: Education Policy
5 First Read: 07-FEB-12
6 PFD: 12/01/2011

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8 SYNOPSIS: Under existing law, and unless exempted,
9 children between the ages of seven and 17 are
10 required to attend a public school, private school,
11 church school, or be instructed by a competent
12 private tutor.

13 This bill would decrease the mandatory
14 minimum age of children required to attend public
15 school from seven to six years of age.

16 This bill would also change the date on
17 which age is calculated for purposes of school
18 attendance from September 1 to August 1 and would
19 delete certain expired temporary provisions.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, prohibits a general
24 law whose purpose or effect would be to require a
25 new or increased expenditure of local funds from
26 becoming effective with regard to a local
27 governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

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

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Sections 16-28-3 and 16-28-4, Code of
19 Alabama 1975, relating to mandatory school attendance, to
20 decrease the minimum age of children required to attend public
21 school from seven to six years of age; to change the date on
22 which age is calculated for school attendance from September 1
23 to August 1; to delete certain expired temporary provisions;
24 and in connection therewith to have as its purpose or effect
25 the requirement of a new or increased expenditure of local
26 funds within the meaning of Amendment 621 of the Constitution
27 of Alabama of 1901, now appearing as Section 111.05 of the

1 Official Recompilation of the Constitution of Alabama of 1901,
2 as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 16-28-3 and 16-28-4 of the Code
5 of Alabama 1975, are amended to read as follows:

6 "§16-28-3.

7 "Every child between the ages of ~~seven~~ six and 17
8 years shall be required to attend a public school, private
9 school, church school, or be instructed by a competent private
10 tutor for the entire length of the school term in every
11 scholastic year except that, prior to attaining his or her
12 16th birthday every child attending a church school as defined
13 in Section 16-28-1 is exempt from the requirements of this
14 section, provided such child complies with enrollment and
15 reporting procedure specified in Section 16-28-7. Admission to
16 public school shall be on an individual basis on the
17 application of the parents, legal custodian, or guardian of
18 the child to the local board of education at the beginning of
19 each school year, under such rules and regulations as the
20 board may prescribe.

21 "§16-28-4.

22 "(a) A child who is six years of age on or before
23 ~~September~~ August 1 or the date on which school begins in the
24 enrolling district shall be entitled to admission to the
25 public elementary schools at the opening of such schools for
26 that school year or as soon as practicable thereafter. A child
27 who is under six years of age on ~~September~~ August 1 or the

1 date on which school begins in the enrolling district shall
2 not be entitled to admission to the first grade in the public
3 elementary schools during that school year; except, that an
4 underage child who transfers from the first grade of a school
5 in another state may be admitted to school upon approval of
6 the board of education in authority, and an underage child who
7 has moved into this state having completed or graduated from a
8 mandated kindergarten program in another state shall be
9 entitled to admission to the public elementary schools
10 regardless of age. A child who becomes six years of age on or
11 before February 1 may, on approval of the board of education
12 in authority, be admitted at the beginning of the second
13 semester of that school year to schools in school systems
14 having semiannual promotions of pupils.

15 " (b) A child who is five years of age on or before
16 ~~September~~ August 1 or the date on which school begins in the
17 enrolling district shall be entitled to admission to the local
18 public school kindergartens at the opening of such schools for
19 that school year or as soon as practicable thereafter; a child
20 who is under five years of age on ~~September~~ August 1 or the
21 date on which school begins in the enrolling district shall
22 not be entitled to admission to such schools during that
23 school year; except that, an underage child who transfers from
24 the public school kindergarten in another state may be
25 admitted to local public kindergarten on the prior approval of
26 the local board of education on a space available basis. The
27 aforementioned underage children transferring from the public

1 school kindergartens of another state, upon successful
2 completion of the kindergarten in the local public schools,
3 will then be allowed admission to the first grade of the local
4 public schools.

5 ~~"(c) Students who were four years of age on or
6 before October 1, 1989, and are enrolled in a public, private
7 or church four-year-old program or kindergarten during the
8 1989-90 school year will be allowed to enroll in a
9 five-year-old public kindergarten, applicable only for the
10 1990-91 school year and to enroll in grade one of a public
11 school, applicable only for 1991-92 school year. Students who
12 are already enrolled in a public, private or church
13 kindergarten will be allowed to enroll in grade one of a
14 public school, applicable only for the 1990-91 school year.~~

15 ~~"(d) (c) No public school system shall lose any
16 teacher unit as a result of this section. The State Board of
17 Education is authorized to adopt policies for local boards of
18 education for the implementation of this section."~~

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

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