

1 HB70
2 188863-1
3 By Representative Collins
4 RFD: Education Policy
5 First Read: 09-JAN-18
6 PFD: 01/04/2018

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8 SYNOPSIS: Under existing law, the State Board of
9 Education consists of the Governor, as an ex
10 officio member of the board, and eight members
11 elected from districts.

12 This bill would expand application of the
13 School Board Governance Improvement Act of 2012, to
14 members of the State Board of Education.

15 This bill would add four nonvoting members
16 to the board consisting of the most recent past and
17 currently serving teachers of the year and one
18 student delegate each elected by the then currently
19 serving delegates to Alabama Boys State and Alabama
20 Girls State.

21 This bill would also require the State
22 Superintendent of Education to employ an
23 administrative director to act as a liaison between
24 the superintendent and the State Board of
25 Education.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

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4 To amend Sections 16-1-6, 16-1-41.1, 16-3-1, 16-3-3,
5 16-3-4, 16-3-5, 16-3-6, 16-3-7, 16-3-9, and 16-4-4, Code of
6 Alabama 1975, relating to the State Board of Education; to
7 expand application of the School Board Governance Improvement
8 Act of 2012, to members of the state board; to add four
9 nonvoting members to the board consisting of the two most
10 recent teachers of the year, one active delegate to Alabama
11 Boys State, and one active delegate to Alabama Girls State;
12 and to require the State Superintendent of Education to employ
13 an administrative director to act as a liaison between the
14 superintendent and the board.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 16-1-6, 16-1-41.1, 16-3-1,
17 16-3-3, 16-3-4, 16-3-5, 16-3-6, 16-3-7, 16-3-9, and 16-4-4 of
18 the Code of Alabama 1975, are amended to read as follows:

19 "§16-1-6.

20 "(a) The Alabama Association of School Board Members
21 is hereby recognized as the organization and representative
22 agency of the members of the school boards of Alabama.

23 "(b) The State Superintendent of Education, the
24 State Department of Education, the State Board of Education,
25 and the boards of education of the county and city systems are
26 hereby empowered and authorized to cooperate with the Alabama
27 Association of School ~~Board Members~~ Boards in its in-service

1 training program for school board members and in encouraging
2 and fostering cooperation among the school boards affiliated
3 with the Alabama Association of School ~~Board Members~~ Boards.

4 "(c) Members of the state, county, and city boards
5 of education are authorized to pay dues to and also may incur
6 reasonable traveling and subsistence expenses in attending
7 meetings of the Alabama Association of School ~~Board Members~~
8 Boards with which it is affiliated. Such dues and expenses may
9 be paid as other expenses are paid by such boards of
10 education.

11 "§16-1-41.1.

12 "(a) This section shall be known and may be cited as
13 the School Board Governance Improvement Act of 2012.

14 "(b) The Legislature finds and declares all of the
15 following:

16 "(1) That the purpose of this section is to enhance
17 the effectiveness of public education governance in Alabama
18 through the establishment of training requirements,
19 boardsmanship standards, and accountability measures that are
20 designed to promote informed deliberations and decisions, to
21 revise the qualifications for serving as a member of the State
22 Board of Education or a local board of education, to provide
23 for a code of conduct for each member of the state board or a
24 local board of education in order to better ensure that any
25 decision or action of the state board or a local board of
26 education is based on the interests of students or the system,
27 and to foster the development and implementation of

1 organizational practices that are designed to promote broad
2 support of the public schools.

3 "(2) ~~A~~ The State Board of Education is the legally
4 constituted body that governs local school systems throughout
5 the state and a local board of education is the legally
6 constituted body that governs a local school system, ~~promotes~~
7 within the state. The state board and each local board of
8 education is responsible for promoting student learning, ~~and~~
9 ~~prepares~~ preparing students to be college and career ready. ~~A~~
10 Both the state board and local school board boards, and not
11 individual board members, ~~is~~ are entrusted with this
12 responsibility. To function effectively, board members, both
13 individually and collectively, must operate with the highest
14 degree of accountability to these responsibilities and their
15 fiduciary duty to act in the best interests of the state and
16 respective local school system, without self-interest. A board
17 member, as an individual, shall satisfy minimum qualifications
18 to serve, shall comply with a code of conduct, and shall be
19 required to participate in orientation and ongoing training.
20 To meet the goal of comprehensive board member education and
21 proficiency, governance standards should be clearly reflected
22 in board member training with a focus on roles and
23 responsibilities, student and school performance standards,
24 and the delineation of each member's role as a public official
25 holding public trust.

26 "(c) For the purposes of this section, the following
27 terms shall have the following meanings:

1 "(1) BOARDSMANSHIP. The effective discharge of
2 duties as a member of the state board or a local board of
3 education in keeping with the highest standards of stewardship
4 and principles of public service as provided in this section.

5 "(2) LOCAL BOARD OF EDUCATION. A city or county
6 board of education whether elected or appointed.

7 "(3) STATE BOARD. The State Board of Education.

8 "(d) (1) In conjunction with and as a precondition to
9 the installation of any elected or appointed member of the
10 state board or a local board of education, and in addition to
11 all other requirements imposed by law, prospective members
12 shall be required for each term of office to affirm publicly
13 and in writing all of the following principles of educational
14 governance:

15 "a. That each decision, action, and vote taken or
16 made as a member of the state board or a local board of
17 education shall be based solely on the needs and interests of
18 students or the system.

19 "b. That no decision, action, or vote shall be taken
20 or made to serve or promote the personal, political, or
21 pecuniary interests of the member.

22 "c. That each decision, action, and vote shall be
23 based on the interests of the state or local school system as
24 a whole.

25 "d. That the views of all members of the state board
26 or local board of education and of the State Superintendent of
27 Education or the local superintendent of education shall be

1 considered before making a decision or taking an action on any
2 measure or proposal before the state board or local board of
3 education.

4 "e. That, except to the extent otherwise provided by
5 law, each member of a local board of education shall take
6 formal action upon the written recommendation of and in
7 consultation with the local superintendent of education, and
8 may not individually or jointly attempt to direct or corrupt
9 the operations of the school system in a manner that is
10 inconsistent with the discharge of the statutory functions and
11 responsibilities of the local superintendent of education.

12 "f. That each member of a local board of education
13 shall actively promote public support for the school system
14 and each member of the state board or a local board of
15 education shall actively promote a sound statewide system of
16 public education, and shall endorse ideas, initiatives, and
17 programs that are designed to improve the quality of public
18 education for all students.

19 "g. That each member of the state board or a local
20 board of education shall attend scheduled meetings and
21 actively participate in his or her respective statewide or
22 local school system functions, activities, and training
23 programs that promote quality boardsmanship unless good cause
24 is shown.

25 "(2) In addition to those duties specifically
26 enumerated in the Code of Alabama 1975, a local board of
27 education shall have all of the following duties:

1 "a. In concert with the local superintendent of
2 education, to establish a vision for the school system by
3 adopting goals that address student needs, advance student
4 performance, and monitor implementation of policies and
5 programs by reviewing data.

6 "b. To adopt written policies and programs, upon the
7 recommendation of the local superintendent of education, to
8 further the educational goals of the system and respond to
9 system needs.

10 "c. To act on personnel recommendations submitted by
11 the local superintendent of education in a timely manner,
12 based on student needs and system finances, without regard to
13 personal preferences or political interests.

14 "d. In concert with the local superintendent of
15 education, to consider and approve operating budgets for the
16 system aligned with the goals and objectives of the local
17 board of education.

18 "e. To advocate for the needs, resources, and
19 interests of public school students and refer stakeholders and
20 constituents to the local superintendent of education so that
21 these issues can be addressed by school system personnel.

22 "f. These duties should not be construed to limit or
23 change the duties of local boards of education as found in the
24 Code of Alabama 1975.

25 "(e) In order to further the implementation of sound
26 principles of boardsmanship within and among the state board
27 and the local boards of education in the state, the State

1 Superintendent of Education shall develop continuing education
2 and training programs for the members of the state board and
3 local boards of education to enhance the understanding of the
4 role of each member in assuring the effective provision of
5 educational services. The programs shall be developed in
6 cooperation with the Alabama Association of School Boards
7 pursuant to Section 16-1-6.

8 "(f) Any member of the state board or a local board
9 of education who fails to satisfy the standards of
10 boardsmanship as provided in this section, or other statutory
11 duty or obligation, under circumstances that constitute
12 neglect of duty or willful misconduct, may be subject to the
13 following sanctions:

14 "(1) Formal censure or reprimand upon an affirmative
15 vote of a majority of the members of the state board or the
16 local board of education on which he or she serves. No such
17 action shall be taken unless the member, who is the subject of
18 the proposed action, is provided at least 30 days' advance
19 written notice of the proposed action by the secretary of the
20 state board or local board of education. The notice shall be
21 issued only upon an affirmative vote of a majority of the
22 members of the whole board of education, shall specify the
23 reasons for the proposed action, and shall state that the
24 member shall be afforded an opportunity to respond orally or
25 in writing to the notice before the vote of the state board or
26 local board of education on the proposed action is taken.

1 "(2) Upon the referral of a written complaint by a
2 majority vote of the applicable state board or local board of
3 education, or when, in the judgment of the State
4 Superintendent of Education, sufficient cause exists to do so,
5 and subject to the conditions hereinafter specified, the State
6 Superintendent may investigate serious and substantial
7 allegations of neglect of duty, misconduct, or breach of duty
8 on the part of any member or members of the state board or a
9 local board of education. On the basis of the investigation,
10 the State Superintendent of Education may either decline to
11 pursue formal sanctions or issue a written notice to the board
12 member or members whose conduct is in question, which notice
13 shall specify the proposed imposition of any sanctions that
14 are contemplated as a result of the investigation. The notice
15 shall also describe with reasonable particularity the neglect
16 of duty, misconduct, or other breach of legal duty upon which
17 any proposed sanction is based. The board member shall have at
18 least 30 days to show cause in person or in writing why he or
19 she should not be subject to the proposed sanction or to
20 otherwise object to the proposed sanction. Upon request, the
21 board member shall be granted a hearing before the State
22 Superintendent of Education, or his or her designee, for the
23 purpose of contesting any proposed sanction.

24 "(3) After the close of the investigation, review,
25 and hearing authorized by this section, the State
26 Superintendent of Education may recommend approval of any of
27 the following sanctions of a member of the state board to the

1 Governor and of a member of a local board of education to the
2 State Board of Education state board:

3 "a. A formal censure or reprimand of the board
4 member.

5 "b. For any board member who fails to meet mandated
6 training and attendance requirements, the member shall be
7 subject to disqualification from eligibility for future
8 appointment, reappointment, or election to the state board or
9 any local board of education in the state.

10 "c. For a board member whose conduct is found by the
11 State Superintendent of Education to constitute neglect of
12 duty or willful misconduct, the member shall be subject to
13 disqualification from eligibility for future appointment,
14 reappointment, or election to the state board or any local
15 board of education in the state.

16 "(4) Nothing in this subsection shall be deemed to
17 preclude a negotiated resolution of any action that may be
18 proposed or initiated by the State Superintendent of Education
19 under this section, provided that such resolution is suitably
20 memorialized, executed, made a matter of public record, and is
21 consistent with the purposes of this section.

22 "(5) No sanction shall be imposed on the basis of
23 the exercise of personal, political, or other rights of a
24 board member that are protected by the United States
25 Constitution or by any state or federal statute.

26 "(6) No sanction by the State Superintendent of
27 Education, other than as may be imposed by written agreement

1 with the board member, shall be effective until it is approved
2 by the Governor or a majority vote of the State Board of
3 Education state board, as applicable.

4 "(g) ~~The State Board of Education~~ state board shall
5 adopt a model code of conduct for members of local boards of
6 education by January 1, 2013, and the State Superintendent of
7 Education, in consultation with the state board, shall
8 establish a similar model code of conduct for members of the
9 state board by January 1, 2019. Before April 1, 2013, each
10 local board of education shall adopt a code of conduct that
11 includes, at a minimum, the model code of conduct adopted by
12 ~~the State Board of Education~~ state board. Before April 1,
13 2019, the state board shall adopt the model code of conduct
14 established by the State Superintendent of Education. The
15 State Superintendent of Education shall develop and issue
16 regulations to implement the requirements of this section,
17 including any regulations deemed necessary and appropriate to
18 ensure that procedures to be followed in connection with the
19 imposition of sanctions authorized under this section conform
20 to applicable legal standards.

21 "(h) This section is cumulative and in addition to
22 any other provision of law governing the training,
23 performance, and accountability of the state board and local
24 boards of education and members of the state board and local
25 boards of education in the State of Alabama.

26 "§16-3-1.

1 "(a) The State Board of Education shall be composed
2 of the Governor as an ex officio member ~~and,~~ eight members
3 elected from districts provided by general law, and four
4 nonvoting members as provided by subsection (b). ~~Members~~
5 Voting members of the board shall serve for terms of four
6 years each, and the member from each district shall be elected
7 by the qualified electors of the district at the general
8 election immediately preceding the expiration of the term of
9 office of the member, as designated by the board, representing
10 such district on the board and every four years thereafter.
11 Each voting member shall hold office from the first Monday
12 after the second Tuesday in January next after his or her
13 election and until his or her successor is elected and
14 qualified.

15 "(b) (1) Commencing on the effective date of the act
16 adding this subsection, the membership of the board shall also
17 include the following nonvoting members:

18 "a. The most recent outgoing Alabama Teacher of the
19 Year.

20 "b. The then currently serving Alabama Teacher of
21 the Year.

22 "c. A student delegate to Alabama Boys State elected
23 by that year's delegates.

24 "d. A student delegate to Alabama Girls State
25 elected by that year's delegates.

26 "(2) The term of an Alabama Teacher of the Year
27 shall commence on the date of his or her selection as teacher

1 of the year and end on the date that his or her successor's
2 successor is selected. If a teacher of the year is unable or
3 unwilling to serve, or in the event of a vacancy during the
4 term, the teacher chosen as his or her alternate shall serve.

5 "(3) The term of each student delegate shall
6 commence on the date of his or her election and shall end on
7 the date his or her successor is elected. If a student
8 delegate is unable or unwilling to serve, or in the event of a
9 vacancy during the term, the student delegate with the next
10 highest votes shall serve.

11 "§16-3-3.

12 "The voting and nonvoting members of the board, if
13 over the age of 18, shall be qualified electors of the State
14 of Alabama, and each voting member shall be a qualified
15 elector in the district which he or she represents. ~~No~~ With
16 the exception of the nonvoting members of the board, no person
17 who is an employee of the board or who is or has been engaged
18 as a professional educator within five years next preceding
19 the date of the election shall be eligible for membership on
20 the board. For the purposes of this section the term
21 "professional educator" shall include teacher, supervisor or
22 principal of any public or private school; instructor,
23 professor or president of any public or private university,
24 college or junior college or trade school; any state, county
25 or city superintendent of education; or other person engaged
26 in an administrative capacity in the field of education.

27 "§16-3-4.

1 "The Governor may remove any appointive voting
2 member or nonvoting member of the board for immorality,
3 misconduct in office, incompetency, or willful neglect of
4 duty, giving to him or her a copy of the charges against him
5 or her and, upon not less than 10 days' notice, an opportunity
6 of being heard publicly in person or by counsel in his or her
7 own defense. If any member shall be removed, the Governor
8 shall file in the office of the Secretary of State a complete
9 statement of all charges against such member of his or her
10 findings thereon, together with a complete record of the
11 proceedings.

12 "§16-3-5.

13 "As vacancies of voting members occur on the board
14 for any cause they shall be filled by the Governor for the
15 unexpired term subject to confirmation by the Senate at the
16 next succeeding session of the Legislature.

17 "§16-3-6.

18 "Before exercising any authority or performing any
19 duty, each voting member of the board shall qualify as such by
20 taking and subscribing to the oath of office prescribed by
21 Article XVI of the state constitution, the certificate whereof
22 shall be filed with the records of the board.

23 "§16-3-7.

24 "The State Board of Education shall hold a regular
25 annual meeting on the second Tuesday in July at the office of
26 the Department of Education in Montgomery, at which meeting
27 one of its voting members shall be elected vice-president.

1 Such other meetings may be held as the needs of public
2 education may require, on dates to be set by the board in
3 official session, by the president or by the State
4 Superintendent of Education on written request of a majority
5 of the voting board members. The rules generally adopted by
6 deliberative bodies for their government shall be observed.

7 "§16-3-9.

8 "(a) Each voting member of the State Board of
9 Education shall be entitled to an expense allowance of one
10 thousand five hundred dollars (\$1,500) per month which shall
11 be in addition to the per diem compensation and actual
12 traveling and other necessary expenses incurred in attending
13 meetings and transacting business of the board, as provided in
14 Section 16-3-8. The provisions of Sections 36-7-20 to 36-7-23,
15 inclusive, regulating payment of expenses of state officers
16 and employees traveling on state business, shall not be
17 applicable to voting members of the State Board of Education.
18 It is expressly understood that this amount of one thousand
19 five hundred dollars (\$1,500) is paid for travel and other
20 business expenses incurred by the board members which are not
21 covered by the per diem and mileage allowance authorized to be
22 paid to the board members.

23 "(b) The expense allowance herein provided shall be
24 paid out of the Education Trust Fund in the same manner as
25 other expenses of the State Board of Education are paid.

26 "§16-4-4.

1 "The State Superintendent of Education shall explain
2 the true intent and meaning of the school laws and of the
3 rules and regulations of the State Board of Education. He or
4 she shall decide, without expense to the parties concerned,
5 all controversies and disputes involving the proper
6 administration of the public school system. The State
7 Superintendent of Education shall enforce all the provisions
8 of this title and the rules and regulations of the State Board
9 of Education. He or she shall file charges with the State
10 Board of Education or other controlling authority and shall
11 recommend for removal or institute proceedings for the removal
12 of any person appointed under the provisions of this title for
13 immorality, misconduct in office, insubordination,
14 incompetency, or willful neglect of duty. The State
15 Superintendent of Education shall employ an administrative
16 director to act as a liaison between the superintendent and
17 the State Board of Education. The administrative director
18 shall serve at the pleasure of the superintendent and shall be
19 responsible directly to the superintendent. The superintendent
20 shall determine the compensation of the administrative
21 director and shall designate the duties and responsibilities
22 of the administrative director."

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