

1 SB60  
2 147329-3  
3 By Senator Brewbaker  
4 RFD: Education  
5 First Read: 05-FEB-13  
6 PFD: 01/28/2013

1 SB60

2  
3  
4 ENROLLED, An Act,

5 To establish the Educational Accountability and  
6 Intervention Act of 2013; to establish a process by which the  
7 State Board of Education, through the State Superintendent of  
8 Education, may exercise direct control over the decision  
9 making and operational functions of city and county boards of  
10 education through educational intervention; to establish terms  
11 and conditions governing the exercise of intervention  
12 authority and the scope thereof, the roles and  
13 responsibilities of city and county board of education  
14 officials under intervention, and the rights of employees of  
15 boards of education under intervention; and to repeal existing  
16 statutes that are in conflict with or otherwise inconsistent  
17 with this act.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. This act shall be known and may be cited  
20 as the Educational Accountability and Intervention Act of  
21 2013.

22 Section 2. The purposes of this act include all of  
23 the following:

24 (1) To clarify and confirm the authority of the  
25 State Superintendent of Education to assume and exercise

1 direct and comprehensive control over the decision making and  
2 operational functions of city and county boards of education  
3 when the demonstrated inability of such boards of education to  
4 discharge administrative, operational, or instructional  
5 functions threatens to deprive students of essential  
6 educational services.

7 (2) To simplify and streamline the exercise of  
8 decision making authority during educational intervention by,  
9 among other things, eliminating distinctions between policy  
10 making and administrative, academic, operational, financial,  
11 and organizational decision making functions performed by city  
12 and county boards of education that have impeded attainment of  
13 intervention objectives to the detriment of the educational  
14 process.

15 (3) To facilitate the implementation of such  
16 organizational reforms and accountability measures as may be  
17 necessary to restore and maintain stable and efficient  
18 provision of sound and educationally appropriate services at  
19 the local level, and to thereby enhance local and statewide  
20 support for public education.

21 Section 3. For the purposes of this act, the  
22 following terms shall have the following meanings:

23 (1) ACADEMIC PERFORMANCE and ACADEMIC CONDITIONS. As  
24 used in subdivision (1) of Section 4, may include, but not be  
25 limited to, definitions of the same or similar terms and

1 related criteria, circumstances, and conditions identified and  
2 described elsewhere in the Code of Alabama 1975. The exercise  
3 of intervention authority under this act is subject solely to  
4 the substantive and procedural preconditions and requirements  
5 set forth herein, the existence of any different, conflicting,  
6 or inconsistent provisions elsewhere in the Code of Alabama  
7 1975, notwithstanding.

8 (2) EDUCATIONAL INTERVENTION and EDUCATIONAL  
9 OPERATIONS. All policy making, administrative, academic,  
10 operational, financial, and organizational decisions and  
11 functions that have a direct or indirect bearing on the  
12 development or provision of academic, extracurricular, and  
13 support services to students served by city and county boards  
14 of education.

15 (3) PRIORITY SCHOOL. A school that has a majority of  
16 its students scoring one or more grade levels below the  
17 prescribed state-adopted student assessments or that is  
18 designated as a priority school by the State Superintendent of  
19 Education.

20 Section 4. The State Board of Education may  
21 intervene in the educational operations of a city or county  
22 board of education and thereby assume general and direct  
23 control over all decision making and operational functions of  
24 the city or county board of education under and subject to the  
25 following terms and conditions:

1           (1) If the State Superintendent of Education  
2 determines that a majority of the schools in the system are  
3 priority schools, or the system is not in compliance with  
4 Chapter 13A, Title 16, Code of Alabama 1975, or the  
5 accreditation status of the system or a majority of the  
6 schools in the system has been placed on probation, or  
7 suspended, or revoked, or if any other formal disciplinary  
8 action has been ordered by the accrediting authority, the  
9 State Superintendent of Education shall issue a written notice  
10 to the local superintendent of education and the presiding  
11 officer of the city or county board of education to show cause  
12 why educational intervention should not be implemented. The  
13 notice shall specify the deficiencies within the operation of  
14 the city or county board of education, the steps that are  
15 required to be taken to correct the deficiencies, and a  
16 reasonable timetable for completing the corrective measures,  
17 which timetable may be extended by the State Superintendent of  
18 Education. The notice shall require that the recipient board  
19 provide a specific written response to the notice, which  
20 response shall be filed with the State Superintendent of  
21 Education not less than 21 calendar days after the date the  
22 notice was issued, unless the time for filing the response is  
23 extended by the State Superintendent of Education. In its  
24 response, the city or county board of education may offer  
25 reasons why intervention is not warranted or, in the

1 alternative, a specific plan and timetable for correcting the  
2 deficiencies identified in the notice to show cause.

3 (2) If, based on the response of the city or county  
4 board of education to the notice to show cause or other  
5 relevant circumstances and considerations, the State  
6 Superintendent of Education determines that educational  
7 intervention is not warranted or should be deferred, the city  
8 or county board of education shall be notified of such  
9 determination.

10 (3) If, in light of the response of the city or  
11 county board of education, the State Superintendent of  
12 Education concludes that educational intervention is  
13 nonetheless warranted, but that the plan proposed by the city  
14 or county board of education for correcting the deficiencies  
15 set forth in the notice is acceptable, with or without such  
16 modifications as may be required by the State Superintendent  
17 of Education, the city or county board of education shall be  
18 notified of such determination. The plan, with any  
19 modifications thereto that may be required by the State  
20 Superintendent of Education, shall thereafter be implemented  
21 according to its terms.

22 (4) If the approved plan is not implemented or if  
23 the response to the notice to show cause does not include a  
24 plan that, in the judgment of the State Superintendent of  
25 Education, adequately addresses the deficiencies that prompted

1 issuance of the notice, the State Superintendent of Education  
2 shall request in writing that the State Board of Education  
3 approve a resolution authorizing the State Superintendent of  
4 Education to intervene in the operations of the city or county  
5 board of education. The request of the State Superintendent of  
6 Education shall include a description of the conditions and  
7 circumstances supporting the request, a copy of the response  
8 of the city or county board of education to the notice to show  
9 cause why educational intervention should not be implemented,  
10 an explanation of why the response of the city or county board  
11 of education to the notice to show cause does not adequately  
12 address the deficiencies identified in the notice, and a  
13 proposed plan for correcting the deficiencies. The city or  
14 county board of education that is the subject of the request  
15 shall be notified thereof by the State Superintendent of  
16 Education and shall be provided with a copy of the request of  
17 the State Superintendent of Education and any material  
18 accompanying or submitted in support of the request. Before  
19 any vote of the State Board of Education on the request, the  
20 city or county board of education that is the subject of the  
21 request shall be afforded an opportunity to demonstrate in  
22 writing to the State Board of Education why such action is not  
23 warranted or should not be approved and to appear before the  
24 State Board of Education for such purpose prior to a vote  
25 being taken on the request for educational intervention.

1           (5) The State Board of Education shall authorize  
2 intervention under this act on the basis of the deficiencies  
3 and supporting data cited in support of the request for  
4 intervention authority of the State Superintendent of  
5 Education and upon a finding that the city or county board of  
6 education has demonstrated an unwillingness or inability to  
7 voluntarily comply with the standards provided in subdivision  
8 (1) and the requirements specified in the request of the State  
9 Superintendent of Education. The resolution by which  
10 educational intervention is authorized shall describe with  
11 reasonable specificity the criteria or conditions that are  
12 required to be satisfied by the city or county board of  
13 education in order to be released from intervention. If the  
14 State Board of Education approves a resolution authorizing  
15 educational intervention, the State Superintendent of  
16 Education may exercise plenary authority to make such  
17 decisions or take such actions as he or she reasonably deems  
18 necessary to correct the deficiencies that led to the request  
19 for approval of intervention or that may be discovered in the  
20 exercise of intervention authority. Educational intervention  
21 authority may be exercised directly by the State  
22 Superintendent of Education or indirectly through his or her  
23 designee acting as a chief administrative officer who shall be  
24 appointed by, report to, and serve in such capacity at the  
25 pleasure and under the supervision of the State Superintendent



1 of Education. The chief administrative officer may act on  
2 behalf of the State Superintendent of Education for all  
3 purposes under this act. If the State Superintendent of  
4 Education appoints a chief administrative officer, that  
5 officer shall be designated by name in a resolution presented  
6 to the State Board of Education.

7 (6) While a city or county board of education is  
8 operating under educational intervention, the State  
9 Superintendent of Education or the chief administrative  
10 officer shall have the power and authority to act for and on  
11 behalf of the city or county board of education and its  
12 superintendent in all matters and for all purposes under the  
13 Code of Alabama 1975. No decision, action, or undertaking made  
14 or approved by the State Superintendent of Education or chief  
15 administrative officer shall require the separate  
16 recommendation, concurrence, or approval of any city or county  
17 board of education or any official thereof in order to be  
18 deemed final, valid, or enforceable. While under educational  
19 intervention, a city or county board of education, with the  
20 approval of the State Superintendent of Education or the chief  
21 administrative officer, may meet according to a schedule and  
22 agenda that are approved in advance by the State  
23 Superintendent of Education or the chief administrative  
24 officer and are subject to modification only at the direction  
25 or with the express approval of the State Superintendent of

1 Education or the chief administrative officer. Otherwise, the  
2 city or county board of education shall meet only at the call  
3 of and for specific purposes approved by the State  
4 Superintendent of Education or the chief administrative  
5 officer. While under educational intervention, city and county  
6 boards of education and their officials and employees shall  
7 serve under the supervision and direction of the State  
8 Superintendent of Education or the chief administrative  
9 officer. The State Superintendent of Education or the chief  
10 administrative officer may delegate to the employees of the  
11 State Department of Education or city or county board of  
12 education officials or employees such administrative authority  
13 and responsibilities as they may deem necessary to ensure the  
14 timely, practical, and efficient execution of normal  
15 educational functions, and, at the expense of the city or  
16 county board of education, may engage and direct the  
17 activities of such consultants, specialists, or employees as  
18 they deem necessary to achieve the objectives of the  
19 intervention.

20 (7) Personnel actions that the State Superintendent  
21 of Education or the chief administrative officer deem  
22 necessary and appropriate to the attainment of intervention  
23 objectives may be implemented directly by such officials.  
24 Personnel actions taken pursuant to the intervention authority  
25 of the State Superintendent of Education must comply with

1 Chapter 24C, Title 16, Code of Alabama 1975, the Students  
2 First Act of 2011, if and to the extent that the Students  
3 First Act of 2011 would otherwise control, except that the  
4 State Superintendent of Education shall discharge the  
5 functions that would otherwise be executed by the local  
6 superintendent and board of education under the Students First  
7 Act of 2011. Intervention-related personnel actions shall also  
8 be described by the State Superintendent of Education or the  
9 chief administrative officer in a written report that shall  
10 include the specific personnel actions to be taken and an  
11 explanation of how such actions serve the attainment of one or  
12 more intervention objectives. At the direction of the State  
13 Superintendent of Education or the chief administrative  
14 officer, and as soon as practicable following its issuance,  
15 the report shall be entered into the minutes of the city or  
16 county board of education and the nature of individual  
17 personnel actions shall be suitably memorialized in the  
18 personnel files of affected employees and in databases or  
19 other records maintained for such purposes by the city or  
20 county board of education. No delay or irregularity in the  
21 transmittal or recordation of the foregoing report or related  
22 data shall invalidate or impair the timely implementation of  
23 intervention-related personnel actions as prescribed by the  
24 State Superintendent of Education or the chief administrative  
25 officer. Personnel actions that are deemed advisable or

1 appropriate but that are not identified as related to the  
2 attainment of intervention objectives by the State  
3 Superintendent of Education or the chief administrative  
4 officer may be initiated and acted on by city or county board  
5 officials. Such actions shall be taken in accordance with  
6 Chapter 24C, Title 16, Code of Alabama 1975, the Students  
7 First Act of 2011, or other generally applicable statutory  
8 requirements, policies, and procedures if the proposed actions  
9 would otherwise be subject to such statutes, policies, and  
10 procedures and if they are first authorized by the State  
11 Superintendent of Education or the chief administrative  
12 officer.

13 (8) The State Superintendent of Education shall  
14 report to the State Board of Education regarding the status of  
15 intervention in the affected city or county system  
16 periodically or at the request of the State Board of Education  
17 and, in any event, not less than once every six months.

18 (9) A city or county board of education may be  
19 released from educational intervention upon the adoption of a  
20 resolution by the State Board of Education authorizing such  
21 action. The resolution shall be considered by the State Board  
22 of Education upon the written recommendation of the State  
23 Superintendent of Education or upon presentation of a written  
24 petition requesting such action duly executed by at least  
25 two-thirds of the members of the city or county board of

1 education that is operating under educational intervention.  
2 The petition shall set forth the grounds on which the petition  
3 is based and may include any evidence that may be relevant to  
4 consideration by the State Board of Education. Representatives  
5 of the city or county board of education may also be heard in  
6 connection with the petition, but no vote shall be taken on  
7 the petition by the State Board of Education without first  
8 soliciting the views of the State Superintendent of Education  
9 regarding the merits of the petition.

10 Section 5. The State Superintendent of Education may  
11 develop and issue regulations to implement the requirements of  
12 this act.

13 Section 6. This act shall be construed to do all of  
14 the following:

15 (1) Provide the State Superintendent of Education or  
16 the chief administrative officer with broad discretion and  
17 complete authority to make, direct, implement, and enforce  
18 decisions, actions, and measures which, in his or her  
19 judgment, are necessary and appropriate to the attainment of  
20 the objectives of educational intervention and to accord the  
21 fullest measure of deference to decisions and actions made by  
22 such officials in furtherance of intervention goals and  
23 objectives.

1           (2) Eliminate unnecessary delay in the  
2 implementation of measures designed to attain intervention  
3 goals and objectives.

4           (3) Protect vested and constitutionally based  
5 employment rights through appropriate procedural safeguards  
6 without impairing attainment of the goals and purposes of  
7 educational intervention or of this act.

8           (4) Be cumulative, supplemental, and complementary  
9 to other legislation that confers authority on the State Board  
10 of Education and the State Superintendent of Education to  
11 exercise control and supervision over the decision making and  
12 operational functions of city and county boards of education,  
13 and not to limit the scope, extent, or exercise of that  
14 authority.

15           Section 7. Any city or county board of education  
16 which, on the effective date of this act, is operating under  
17 any form of intervention by virtue of a statute that is  
18 repealed or superseded by this act shall remain subject to the  
19 terms and provisions of the statute and the authority  
20 conferred thereby on the State Board of Education, State  
21 Superintendent of Education, and their designees until the  
22 city or county board of education is released from  
23 intervention.

24           Section 8. The various sections and provisions of  
25 this act are severable, and should any part, provision,

1 section, or subsection hereof be held unlawful, invalid, or  
2 unenforceable by any court of competent jurisdiction, such  
3 holding shall not impair, invalidate, or otherwise affect the  
4 terms or provisions of the act that are not the subject  
5 thereof or invalidated thereby.

6 Section 9. All laws or parts of laws which conflict  
7 with this act are repealed.

8 Section 10. This act shall become effective  
9 immediately upon its passage and approval by the Governor or  
10 its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

---

President and Presiding Officer of the Senate

---

Speaker of the House of Representatives

SB60  
Senate 21-FEB-13  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris  
Secretary

---

House of Representatives  
Amended and passed 20-MAY-13

---

Senate concurred in House amendment 20-MAY-13

---

By: Senator Brewbaker