

1 SB43
2 164335-2
3 By Senator Brewbaker
4 RFD: Education & Youth Affairs
5 First Read: 03-MAR-15
6 PFD: 02/23/2015

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8 SYNOPSIS: Under existing law, the State Board of
9 Education may intervene in the educational
10 operations of a local board of education upon a
11 determination by the State Superintendent of
12 Education that certain conditions exist and written
13 notice by the State Superintendent of Education to
14 the local board of education to show cause why
15 intervention should not be implemented.

16 This bill would provide further for the
17 conditions that warrant issuance of written notice
18 and would provide that the notice be issued to the
19 local superintendent of education and the presiding
20 officer of the local school system in lieu of the
21 presiding officer of the city or county board of
22 education.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 16-6E-4, Code of Alabama 1975,
2 relating to intervention in local education operations and
3 assumption of control by the State Board of Education; to
4 provide further for the conditions that warrant issuance of
5 written notice; and to provide that notice be issued to the
6 local superintendent of education and the presiding officer of
7 the local school system in lieu of the presiding officer of
8 the city or county board of education.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 16-6E-4 of the Code of Alabama
11 1975, is amended to read as follows:

12 "§16-6E-4.

13 "The State Board of Education may intervene in the
14 educational operations of a city or county board of education
15 and thereby assume general and direct control over all
16 decision making and operational functions of the city or
17 county board of education under and subject to the following
18 terms and conditions:

19 "~~(1) If the State Superintendent of Education~~
20 ~~determines that a majority of the schools in the system are~~
21 ~~priority schools, or the system is not in compliance with~~
22 ~~Chapter 13A of this title or the accreditation status of the~~
23 ~~system or a majority of the schools in the system has been~~
24 ~~placed on probation, or suspended, or revoked, or if any other~~
25 ~~formal disciplinary action has been ordered by the accrediting~~
26 ~~authority, the~~ a. The State Superintendent of Education shall
27 issue a written notice to the local superintendent of

1 education and the presiding officer of the ~~city or county~~
2 ~~board of education~~ local school system to show cause why
3 educational intervention should not be implemented. The notice
4 shall issue upon the State Superintendent of Education finding
5 that one or more of the following conditions exist:

6 "1. The local school system is in material
7 noncompliance with statutes, rules, or regulations relating to
8 any of the following or a combination of material academic,
9 financial, organizational, operational, and/or safety
10 noncompliance, and school governance and accountability
11 including, but not limited to, mandates imposed by or under
12 authority of Chapter 13A of this title.

13 "2. A majority of the students have failed to meet
14 the state approved benchmark for state standards or the local
15 school system has been notified of disciplinary action taken
16 against it from the accrediting entity recognized by the State
17 Board of Education.

18 "b. The notice shall specify the deficiencies within
19 the operation of the city or county board of education, the
20 steps that are required to be taken to correct the
21 deficiencies, and a reasonable timetable for completing the
22 corrective measures, which timetable may be extended by the
23 State Superintendent of Education. The notice shall require
24 that the recipient board provide a specific written response
25 to the notice, which response shall be filed with the State
26 Superintendent of Education not less than 21 calendar days
27 after the date the notice was issued, unless the time for

1 filing the response is extended by the State Superintendent of
2 Education. In its response, the city or county board of
3 education may offer reasons why intervention is not warranted
4 or, in the alternative, a specific plan and timetable for
5 correcting the deficiencies identified in the notice to show
6 cause.

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

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

26 "(4) If the approved plan is not implemented or if
27 the response to the notice to show cause does not include a

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

1 "(5) The State Board of Education shall authorize
2 intervention under this chapter on the basis of the
3 deficiencies and supporting data cited in support of the
4 request for intervention authority of the State Superintendent
5 of Education and upon a finding that the city or county board
6 of 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
26 of Education. The chief administrative officer may act on
27 behalf of the State Superintendent of Education for all

1 purposes under this chapter. If the State Superintendent of
2 Education appoints a chief administrative officer, that
3 officer shall be designated by name in a resolution presented
4 to the State Board of Education.

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

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

16 "(7) Personnel actions that the State Superintendent
17 of Education or the chief administrative officer deem
18 necessary and appropriate to the attainment of intervention
19 objectives may be implemented directly by such officials.
20 Personnel actions taken pursuant to the intervention authority
21 of the State Superintendent of Education must comply with
22 Chapter 24C of this title, the Students First Act of 2011, if
23 and to the extent that the Students First Act of 2011 would
24 otherwise control, except that the State Superintendent of
25 Education shall discharge the functions that would otherwise
26 be executed by the local superintendent and board of education
27 under the Students First Act of 2011. Intervention-related

1 personnel actions shall also be described by the State
2 Superintendent of Education or the chief administrative
3 officer in a written report that shall include the specific
4 personnel actions to be taken and an explanation of how such
5 actions serve the attainment of one or more intervention
6 objectives. At the direction of the State Superintendent of
7 Education or the chief administrative officer, and as soon as
8 practicable following its issuance, the report shall be
9 entered into the minutes of the city or county board of
10 education and the nature of individual personnel actions shall
11 be suitably memorialized in the personnel files of affected
12 employees and in databases or other records maintained for
13 such purposes by the city or county board of education. No
14 delay or irregularity in the transmittal or recordation of the
15 foregoing report or related data shall invalidate or impair
16 the timely implementation of intervention-related personnel
17 actions as prescribed by the State Superintendent of Education
18 or the chief administrative officer. Personnel actions that
19 are deemed advisable or appropriate but that are not
20 identified as related to the attainment of intervention
21 objectives by the State Superintendent of Education or the
22 chief administrative officer may be initiated and acted on by
23 city or county board officials. Such actions shall be taken in
24 accordance with Chapter 24C of this title, the Students First
25 Act of 2011, or other generally applicable statutory
26 requirements, policies, and procedures if the proposed actions
27 would otherwise be subject to such statutes, policies, and

1 procedures and if they are first authorized by the State
2 Superintendent of Education or the chief administrative
3 officer.

4 "(8) The State Superintendent of Education shall
5 report to the State Board of Education regarding the status of
6 intervention in the affected city or county system
7 periodically or at the request of the State Board of Education
8 and, in any event, not less than once every six months.

9 "(9) A city or county board of education may be
10 released from educational intervention upon the adoption of a
11 resolution by the State Board of Education authorizing such
12 action. The resolution shall be considered by the State Board
13 of Education upon the written recommendation of the State
14 Superintendent of Education or upon presentation of a written
15 petition requesting such action duly executed by at least
16 two-thirds of the members of the city or county board of
17 education that is operating under educational intervention.
18 The petition shall set forth the grounds on which the petition
19 is based and may include any evidence that may be relevant to
20 consideration by the State Board of Education. Representatives
21 of the city or county board of education may also be heard in
22 connection with the petition, but no vote shall be taken on
23 the petition by the State Board of Education without first
24 soliciting the views of the State Superintendent of Education
25 regarding the merits of the petition."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.