

1 SB25
2 188502-1
3 By Senator Albritton
4 RFD: Education and Youth Affairs
5 First Read: 09-JAN-18
6 PFD: 12/05/2017

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

12 Also under existing law, the State
13 Superintendent of Education is appointed by the
14 State Board of Education.

15 This bill would establish a 13-member Board
16 of Counsel in lieu of the State Board of Education,
17 would remove the Governor from ex officio
18 membership on the reconstituted and renamed board,
19 and would provide for the appointment of the
20 members of the board by a Director of Education,
21 who is appointed by the Governor, by and with the
22 advice and consent of the Senate.

23 This bill would eliminate the position of
24 State Superintendent of Education and provide for
25 the creation of the position of Director of
26 Education as a cabinet level position with service
27 at the pleasure of the Governor.

1 This bill would specify the qualifications
2 of the members of the Board of Counsel and would
3 provide for the terms of office and the filling of
4 vacancies of members.

5 This bill would also provide for the
6 election of a president and vice-president of the
7 Board of Counsel.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

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13 To amend Sections 16-2-1, 16-2-2, 16-2-3, 16-3-1,
14 16-3-2, 16-3-3, 16-3-4, 16-3-5, 16-3-7, 16-3-8, 16-3-9, and
15 16-4-1, Code of Alabama 1975, relating to the selection,
16 qualifications, and terms of office of the members of the
17 State Board of Education and the State Superintendent of
18 Education; to establish a Board of Counsel in lieu of the
19 State Board of Education; to eliminate the position of State
20 Superintendent of Education and establish the position of
21 Director of Education as a cabinet level position with service
22 at the pleasure of the Governor; to provide for the
23 appointment of the members of the Board of Counsel by the
24 Director of Education; to specify the qualifications of
25 members of the Board of Counsel; to provide for terms and the
26 filling of vacancies of members of the board; to provide for
27 the election of a president and vice president of the board;

1 to repeal Sections 16-3-1.1 and 16-4-1.1, Code of Alabama
2 1975, relating to State Board of Education election districts
3 and the filling of a vacancy in the office of State
4 Superintendent of Education; and to provide for an effective
5 date contingent upon ratification of a constitutional
6 amendment eliminating the office of State Superintendent of
7 Education and the State Board of Education and authorizing the
8 creation of the position of Director of Education and a Board
9 of Counsel in lieu thereof.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 16-2-1, 16-2-2, 16-2-3, 16-3-4,
12 16-3-5, 16-3-7, 16-3-8, 16-3-9, and 16-4-1, of the Code of
13 Alabama 1975, are amended to read as follows:

14 "§16-2-1.

15 "(a) There shall be a Department of Education, which
16 shall be under the direction of the ~~State Superintendent of~~
17 ~~Education~~ Director of Education with the advice and counsel of
18 the ~~State Board of Education~~ Board of Counsel created in
19 Section 16-3-1.

20 "(b) The Director of Education shall be appointed
21 pursuant to Section 16-4-1. The Director of Education is a
22 cabinet level position and the director shall be responsible
23 for the performance and exercise of the duties,
24 responsibilities, functions, powers, and authority imposed
25 upon him or her by law and shall be the principal advisor to
26 the Governor on K-12 education policy in the state.

1 ~~"(b) The assistant state superintendents of~~
2 ~~education, when they are provided by the State Board of~~
3 ~~Education, shall perform the duties of the state~~
4 ~~superintendent when so directed by the State Superintendent of~~
5 ~~Education and such other duties as required by the State~~
6 ~~Superintendent of Education.~~

7 "§16-2-2.

8 "The duties of the Department of Education shall be,
9 through its personnel, to assist in executing the policies and
10 procedures authorized by law and by rules and regulations of
11 the ~~State Board of Education~~ Counsel.

12 "§16-2-3.

13 "~~By action of the State Board of Education, upon~~
14 ~~recommendation of the State Superintendent of Education~~
15 Director of Education, the department shall be organized into
16 such divisions and services as may be found necessary to carry
17 on its work efficiently.

18 "§16-3-1.

19 "~~The State Board of Education~~ Board of Counsel shall
20 be composed of ~~the Governor as an ex officio member and eight~~
21 13 members ~~elected from districts provided by general law as~~
22 provided in Section 16-3-3. Members of the board shall serve
23 for terms of ~~four~~ two years each, and ~~the member from each~~
24 ~~district shall be elected by the qualified electors of the~~
25 ~~district at the general election~~ appointed by the Director of
26 Education immediately preceding the expiration of the term of
27 office of ~~the member, as designated by the board, representing~~

1 ~~such district~~ a member serving on the board and every ~~four~~ two
2 years thereafter. Each member shall hold office from the first
3 Monday after the second Tuesday in January next after his or
4 her ~~election~~ appointment and until his or her successor is
5 ~~elected and qualified~~ appointed. Appointments to the board
6 shall be made so that diversity of gender, race, economic
7 status, and geographical areas is reflective of the makeup of
8 this state. A member may not serve consecutive terms of
9 office, unless the initial term is less than two years.

10 "§16-3-2.

11 ~~"The Governor shall be the President of the State~~
12 ~~Board of Education, and the board shall elect a vice-president~~
13 ~~from its members annually. The State Superintendent~~ Director
14 of Education shall be secretary and executive officer of the
15 board.

16 "§16-3-3.

17 "The members of the board shall be qualified
18 electors of the State of Alabama, ~~and each member shall be a~~
19 ~~qualified elector in the district which he represents. No~~
20 ~~person who is an employee of the board or who is or has been~~
21 ~~engaged as a professional educator within five years next~~
22 ~~preceding the date of the election shall be eligible for~~
23 ~~membership on the board. For the purposes of this section the~~
24 ~~term "professional educator" shall include teacher, supervisor~~
25 ~~or principal of any public or private school; instructor,~~
26 ~~professor or president of any public or private university,~~
27 ~~college or junior college or trade school; any state, county~~

1 ~~or city superintendent of education; or other person engaged~~
2 ~~in an administrative capacity in the field of education. Seven~~
3 ~~members of the board shall be actively serving local~~
4 ~~superintendents of education and six members of the board~~
5 ~~shall be actively serving members of local boards of~~
6 ~~education. If a member vacates his or her local position for~~
7 ~~any reason, his or her position on the state board shall also~~
8 ~~be vacated.~~

9 "§16-3-4.

10 "The ~~Governor~~ Director of Education may remove any
11 ~~appointive~~ member of the board for immorality, misconduct in
12 office, incompetency, or willful neglect of duty, giving to
13 ~~him~~ the member a copy of the charges against him or her and,
14 upon not less than 10 days' notice, an opportunity of being
15 heard publicly in person or by counsel in his or her own
16 defense. If any member shall be removed, the ~~Governor~~ Director
17 of Education shall file in the office of the Secretary of
18 State a complete statement of all charges against ~~such~~ the
19 member of his or her findings thereon, together with a
20 complete record of the proceedings.

21 "§16-3-5.

22 "As vacancies occur on the board for any cause they
23 shall be filled by the ~~Governor~~ Director of Education for the
24 unexpired term ~~subject to confirmation by the Senate at the~~
25 ~~next succeeding session of the Legislature. Each member~~
26 appointed to fill a vacancy shall possess the same
27 qualifications as the vacating member.

1 "§16-3-7.

2 "The ~~State Board of Education~~ Board of Counsel shall
3 hold a regular annual meeting on the second Tuesday in July at
4 the office of the Department of Education in Montgomery, at
5 which meeting one of its members shall be elected
6 ~~vice-president~~ president and one of its members shall be
7 elected vice president. ~~Such other~~ Other meetings may be held
8 as the needs of public education may require, on dates to be
9 set by the board in official session, by the ~~president~~
10 Governor, or by the ~~State Superintendent~~ Director of Education
11 on written request of a majority of the board members. The
12 rules generally adopted by deliberative bodies for their
13 government shall be observed.

14 "§16-3-8.

15 "The members of the ~~State Board of Education~~ Board
16 of Counsel shall receive a per diem compensation of ~~\$10.00~~ ten
17 dollars (\$10) for each day of actual service and for a total
18 of not more than 25 days in any fiscal year and their actual
19 traveling and other necessary expenses incurred in attending
20 meetings and transacting the business of the board.

21 "§16-3-9.

22 "(a) Each member of the ~~State Board of Education~~
23 Board of Counsel shall be entitled to an expense allowance of
24 one thousand five hundred dollars (\$1,500) per month which
25 shall be in addition to the per diem compensation and actual
26 traveling and other necessary expenses incurred in attending
27 meetings and transacting business of the board, as provided in

1 Section 16-3-8. The provisions of Sections 36-7-20 to 36-7-23,
2 inclusive, regulating payment of expenses of state officers
3 and employees traveling on state business, shall not be
4 applicable to members of the ~~State Board of Education~~ Board of
5 Counsel. It is expressly understood that this amount of one
6 thousand five hundred dollars (\$1,500) is paid for travel and
7 other business expenses incurred by the board members which
8 are not covered by the per diem and mileage allowance
9 authorized to be paid to the board members.

10 "(b) The expense allowance herein provided shall be
11 paid out of the Education Trust Fund in the same manner as
12 other expenses of the ~~State Board of Education~~ Board of
13 Counsel are paid.

14 "§16-4-1.

15 "(a) As the chief executive officer of the State
16 Department of Education there shall be a ~~State Superintendent~~
17 Director of Education, who shall be appointed by the ~~State~~
18 ~~Board of Education~~ Governor, by and with the advice and
19 consent of the Senate, and shall serve at the pleasure of the
20 ~~State Board of Education; provided, however that the State~~
21 ~~Board of Education may enter into a contract with the State~~
22 ~~Superintendent of Education for his services for a period not~~
23 ~~to exceed four years~~ Governor.

24 "(b) The ~~Superintendent of Education~~ director shall
25 be a person of good moral character, with academic and
26 professional education equivalent to graduation from a
27 standard university or college, who is knowledgeable in school

1 administration and has training and experience sufficient to
2 qualify him or her to perform the duties of ~~his~~ the office.

3 "(c) The salary of the ~~State Superintendent of~~
4 ~~Education~~ director shall be such amount per annum as shall be
5 set by ~~the State Board of Education~~ the Governor in an amount
6 ~~within the range now or hereafter established by law,~~ to be
7 determined by the Governor and paid in installments from the
8 annual appropriation of the State Department of Education
9 State Treasury as the salaries of other state officers are
10 paid."

11 Section 2. The Code Commissioner is directed to
12 change all references to the State Superintendent of Education
13 and the State Board of Education in the Code of Alabama 1975,
14 to the Director of Education and the Board of Counsel,
15 respectively, as appropriate.

16 Section 3. All laws or parts of laws which conflict
17 with this act are repealed, and Sections 16-3-1.1 and
18 16-4-1.1, Code of Alabama 1975, providing districts for the
19 election of the members of the State Board of Education and
20 the filling of a vacancy in the office of State Superintendent
21 of Education, are specifically repealed.

22 Section 4. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law, contingent upon
25 ratification of a constitutional amendment revising the method
26 of appointing the State Superintendent of Education and

1 authorizing the State Superintendent of Education to appoint
2 the members of the State Board of Education.