

1 HB338
2 204312-3
3 By Representatives Estes, Garrett, Oliver, Brown (C),
4 Reynolds, Simpson, Ledbetter and Collins
5 RFD: Education Policy
6 First Read: 04-FEB-21

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8 SYNOPSIS: This bill would create the Building
9 Exceptional School Board Teams (BEST) Act, to
10 provide further for boardsmanship standards,
11 training, and discipline of elected and appointed
12 members of local boards of education.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To create the Building Exceptional School Board
19 Teams (BEST) Act; to provide further for boardsmanship
20 standards, training, and discipline of elected and appointed
21 members of local boards of education; to amend Sections 16-8-1
22 and 16-11-2, Code of Alabama 1975, relating to the composition
23 of city and county boards of education; and to repeal Section
24 16-1-41.1, Code of Alabama 1975, relating to the School Board
25 Governance Improvement Act of 2012.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 1 to 8, inclusive, shall be
2 known and may be cited as the Building Exceptional School
3 Board Teams (BEST) Act.

4 Section 2. For the purposes of Sections 1 to 8,
5 inclusive, the following terms shall have the following
6 meanings:

7 (1) BOARD MEMBER. A member of a local board of
8 education.

9 (2) BOARDSMANSHIP. The effective discharge of duties
10 as a member of a local board of education in keeping with the
11 highest standards of stewardship and principles of public
12 service as provided in Sections 1 to 8, inclusive.

13 (3) CENSURE. A public statement of disapproval for
14 conduct which violates Sections 1 to 8, inclusive, or other
15 applicable law, regulation, or policy.

16 (4) LOCAL BOARD OF EDUCATION. A city or county board
17 of education whether elected or appointed. The term does not
18 include special boards or charter school boards.

19 (5) NEGLECT OF DUTY. A failure to do what is
20 required by law, regulation, or policy.

21 (6) PEER REVIEW PANEL. A panel of board members
22 convened by the State Superintendent of Education to review
23 matters arising under Sections 1 to 8, inclusive.

24 (7) REGULAR MEETING. A regularly scheduled meeting
25 held by a local board of education. The term does not include
26 a special called meeting, work session, disciplinary hearing,
27 or other gathering held by a local board of education.

1 (8) SANCTION. A penalty imposed beyond a censure.

2 (9) SCHOLASTIC YEAR. The period beginning with the
3 first day of July and ending with the last day of June each
4 year.

5 (10) WILLFUL MISCONDUCT. An intentional act or
6 omission in violation of law, regulation, policy, or generally
7 accepted rule of conduct. The term generally refers to
8 multiple instances of inappropriate behavior, but a single
9 incident may be sufficient to establish willful misconduct if
10 the behavior is severe.

11 Section 3. (a) In conjunction with and as a
12 precondition to the installation of any elected or appointed
13 board member, and in addition to all other requirements
14 imposed by law, prospective board members shall be required
15 for each term of office to affirm publicly and in writing all
16 of the following principles of educational governance:

17 (1) That each decision, action, and vote taken or
18 made as a board member shall be based solely on the needs and
19 interests of students or the system.

20 (2) That no decision, action, or vote shall be taken
21 or made to serve or promote the personal, political, or
22 pecuniary interests of the member.

23 (3) That each decision, action, and vote shall be
24 based on the interests of the school system as a whole.

25 (4) That the views of all board members and of the
26 local superintendent of education shall be considered before

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

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

11 (6) That each board member shall actively promote
12 public support for the school system and a sound statewide
13 system of public education, and shall endorse ideas,
14 initiatives, and programs that are designed to improve the
15 quality of public education for all students.

16 (7) That each board member shall attend scheduled
17 meetings and actively participate in school system functions,
18 activities, and training programs that promote quality
19 boardsmanship unless good cause is shown.

20 (b) In addition to those duties specifically
21 provided by law, a local board of education shall do all of
22 the following:

23 (1) In concert with the local superintendent of
24 education, establish a vision for the school system by
25 adopting goals that address student needs, advance student
26 performance, and monitor implementation of policies and
27 programs by reviewing data.

1 (2) Adopt written policies and programs, upon the
2 recommendation of the local superintendent of education, to
3 further the educational goals of the system and respond to
4 system needs.

5 (3) Act on personnel recommendations submitted by
6 the local superintendent of education in a timely manner,
7 based on student needs and system finances, without regard to
8 personal preferences or political interests.

9 (4) In concert with the local superintendent of
10 education, consider and approve operating budgets for the
11 system aligned with the goals and objectives of the local
12 board of education.

13 (5) Advocate for the needs, resources, and interests
14 of public school students and refer stakeholders and
15 constituents to the local superintendent of education so that
16 these issues may be addressed by school system personnel.

17 (6) Maintain the confidentiality imposed by law,
18 regulation, or policy including, but not limited to, matters
19 that are subject to attorney client privilege, matters
20 discussed in executive session pursuant to the Alabama Open
21 Meetings Act, matters related to student records and
22 information protected by the Federal Educational Rights and
23 Privacy Act, and other documents and information protected by
24 public disclosure laws.

25 (7) These duties should not be construed to limit or
26 change the duties of a local board of education as found in
27 the Code of Alabama 1975.

1 (c) The State Board of Education shall adopt a model
2 code of conduct for members of local boards of education and
3 each local board of education shall adopt a code of conduct
4 that includes, at a minimum, the model code of conduct adopted
5 by the State Board of Education. The State Superintendent of
6 Education shall develop and issue regulations to implement the
7 requirements of Sections 1 to 8, inclusive, including any
8 regulations deemed necessary and appropriate to ensure that
9 procedures to be followed in connection with the imposition of
10 sanctions authorized under Sections 1 to 8, inclusive, conform
11 to applicable legal standards.

12 (d) In order to further the implementation of sound
13 principles of boardsmanship within and among the local boards
14 of education in the state, the State Superintendent of
15 Education shall develop continuing education and training
16 programs for board members to enhance the understanding of the
17 role of each board member in assuring the effective provision
18 of educational services. The programs shall be developed in
19 cooperation with the Alabama Association of School Boards
20 pursuant to Section 16-1-6, Code of Alabama 1975.

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

25 Section 4. (a) A board member who fails to satisfy
26 the standards of boardsmanship as provided in Sections 1 to 8,
27 inclusive, or other law, under circumstances that constitute

1 neglect of duty or willful misconduct, may be subject to the
2 following disciplinary actions:

3 (1) Censure.

4 (2) Sanction.

5 (3) Removal from the local board of education.

6 (b) A local board of education may censure or
7 sanction its own board members consistent with the procedures
8 in Sections 1 to 8, inclusive. The local board of education
9 may also request the State Superintendent of Education to take
10 additional disciplinary action.

11 (c) Before disciplinary action by the State
12 Superintendent of Education may be requested by a board
13 member, one or more board members shall first initiate, or
14 attempt to initiate, disciplinary proceedings before the local
15 board of education. The State Superintendent of Education may
16 unilaterally initiate disciplinary action under this section
17 consistent with procedures provided in Sections 1 to 8,
18 inclusive. The State Superintendent of Education may adopt
19 guidelines, procedures, and forms to implement this section.

20 Section 5. (a) (1) To ensure the effectiveness of
21 regular meetings and the adequate representation of residents,
22 each board member shall be present to conduct the business of
23 the local board of education. A board member should make every
24 reasonable effort to attend regular meetings.

25 (2) If a board member is absent for three
26 consecutive regular meetings or more than six regular meetings
27 during a scholastic year, excluding absences caused by

1 military service, the local board of education, or its
2 designee, shall give notice to the State Superintendent of
3 Education. If the reason for the absences is known, that
4 information should be provided to the State Superintendent of
5 Education.

6 (3) Upon receipt of notice of excessive absences,
7 the State Superintendent of Education may appoint a peer
8 review panel to determine whether further review is warranted.

9 (b) (1) Pursuant to Sections 16-8-1 and 16-11-2, Code
10 of Alabama 1975, a board member shall be a resident of the
11 district he or she represents.

12 (2) The State Superintendent of Education may
13 appoint a peer review panel to consider residency challenges
14 and make recommendations to the State Superintendent Education
15 to declare the seat vacant.

16 (3) Residency challenges may be submitted to the
17 State Superintendent of Education by the local board of
18 education, a board member, or an adult resident living within
19 the geographical boundaries of the local board of education.
20 Challenges shall be accompanied by a refundable surety bond in
21 the amount of two hundred fifty dollars (\$250). Any individual
22 filing a challenge shall provide a factual basis for the
23 challenge, and any supporting evidence, if available.

24 (4) This subsection shall not impair the ability of
25 the Attorney General, a local district attorney, or a citizen
26 to file a quo warranto action in the local circuit court.

1 (c) (1) The State Superintendent of Education may set
2 annual training requirements for board members. The State
3 Superintendent of Education may grant waivers of the annual
4 training requirements to individual board members upon request
5 based on hardship or other valid reason.

6 (2) If a board member fails to comply with training
7 requirements, the local board of education shall withhold any
8 compensation paid to that board member until the training
9 requirement is satisfied or a waiver is granted. The
10 withholding shall become effective September 1 following the
11 training year ending June 30. Compensation shall be released
12 in full once the training requirement is satisfied or a waiver
13 is granted. Compensation shall be forfeited if the board
14 member is out of compliance at the end of his or her term or
15 service on the local board of education.

16 (3) The State Superintendent of Education shall
17 report any board member who has failed to complete the
18 training requirements to the State Board of Education at the
19 September State Board of Education meeting following the
20 training year ending June 30. The names shall be posted on the
21 website of the State Department of Education. Once the member
22 is in compliance or a waiver has been granted, the website
23 shall be updated to reflect that status.

24 (4) The State Superintendent of Education may
25 appoint a peer review panel to consider whether additional
26 discipline is warranted.

1 (d) Within three business days, a board member shall
2 report conviction of a misdemeanor offense, excluding minor
3 traffic offenses, to the State Superintendent of Education.
4 The State Superintendent of Education may convene a peer
5 review panel to determine if further action is necessary.
6 Failure to notify the State Superintendent of Education of a
7 conviction does not preclude the State Superintendent of
8 Education from convening a peer review panel.

9 Section 6. (a) When one or more board members
10 believe action is warranted for a suspected violation of
11 Sections 1 to 8, inclusive, a board member shall make a motion
12 to initiate proceedings in an open meeting. The motion shall
13 be supported by a written summary of the factual basis for
14 making the motion and the law, regulation, policy,
15 affirmation, duty, or code of conduct provision allegedly
16 violated. A majority of the membership of the local board of
17 education shall vote to begin proceedings.

18 (b) Written notice of the proposed action shall be
19 provided to the board member by the local superintendent of
20 education in his or her role as secretary of the local board
21 of education. The notice shall include a written summary of
22 the factual basis for making the motion and the law,
23 regulation, policy, affirmation, duty, or code of conduct
24 provision allegedly violated. The board member shall have 14
25 calendar days to request a hearing, submit a written response,
26 or accept the proposed action of the local board of education.

1 (c) If the board member requests a hearing, the
2 hearing shall be scheduled no sooner than 30 calendar days
3 from the date of the request. If the board member submits a
4 written response, accepts the proposed action, or fails to
5 timely respond, the local board of education may vote on the
6 proposed action at the next regular meeting. Any hearing
7 convened under this subsection shall be public and any
8 evidence submitted shall be subject to public disclosure,
9 unless deemed confidential by any other law.

10 (d) The local board of education may vote to take no
11 action or censure, sanction, or refer the board member to the
12 State Superintendent of Education for further action. Any vote
13 shall be by a majority of the membership of the local board of
14 education.

15 Section 7. (a) (1) Each State Board of Education
16 member shall appoint a board member from his or her state
17 board district to serve in the pool of peer review panel
18 members. Each appointed peer review panel member shall serve a
19 term in the pool that corresponds with the term of office of
20 the appointing State Board of Education member. To be eligible
21 for appointment as a peer review panel member, a board member
22 shall have served at least one full term on a local board of
23 education. If a peer review panel member resigns from the pool
24 or ceases to be a member of a local board of education, the
25 State Board of Education member from that district shall
26 appoint a replacement peer review panel member to serve for
27 the remainder of the unexpired term.

1 (2) The State Superintendent of Education may
2 convene a peer review panel to consider violations arising
3 under Sections 1 to 8, inclusive.

4 (3) To convene a peer review panel, the State
5 Superintendent of Education shall randomly select three peer
6 review panel members from the pool, excluding the peer review
7 panel member who resides in the same State Board of Education
8 district as the subject board member, to consider the matter.
9 A peer review panel member who has a conflict of interest or
10 other legitimate reason to decline serving on a particular
11 matter shall submit a request the State Superintendent to be
12 excused. Upon granting the request, the State Superintendent
13 of Education shall randomly select another peer review panel
14 member to serve.

15 (4) The State Superintendent of Education may
16 appoint an attorney experienced in education law to conduct
17 any necessary investigation and to present evidence and
18 information to the peer review panel.

19 (5) The peer review panel shall provide a board
20 member with the opportunity to offer a defense.

21 (6) Hearings before a peer review panel shall
22 provide minimum due process consisting of notice of the
23 allegations and an opportunity to request a hearing. Hearings
24 before a peer review panel shall be considered confidential. A
25 transcript or recording shall be prepared for any matter which
26 results in a hearing before the peer review panel. Documents,
27 evidence, and transcripts shall remain confidential until such

1 time as the matter is disposed of by the State Superintendent
2 of Education or State Board of Education.

3 (7) Peer review panel members may meet
4 electronically to consider any matter, except those which
5 involve a hearing.

6 (8) Following review, a peer review panel shall
7 recommend any action to the State Superintendent.

8 (9) No peer review panel member shall be paid for
9 his or her service, but shall be reimbursed for actual mileage
10 and other reasonable expenses.

11 (b) (1) Upon the referral of a written complaint by a
12 majority vote of the local board of education, or when, in the
13 judgment of the State Superintendent of Education, sufficient
14 cause exists to do so, and subject to the conditions
15 hereinafter specified, the State Superintendent of Education
16 may investigate serious and substantial allegations of neglect
17 of duty, willful misconduct, or other conduct which violates
18 Sections 1 to 8, inclusive, or other law on the part of a
19 board member or board members of a local board of education.

20 (2) The State Superintendent of Education may
21 unilaterally refer matters to a peer review panel to determine
22 if action is warranted. The State Superintendent of Education
23 shall provide written notice to the board member which shall
24 include a statement of the facts alleged and the law,
25 regulation, policy, affirmation, duty, or code of conduct
26 provision allegedly violated. The board member shall have 14
27 calendar days to request a hearing, submit a written response,

1 or accept the proposed action of the State Superintendent of
2 Education. If the board member requests a hearing, the hearing
3 shall be scheduled no sooner than 30 calendar days after the
4 date of the request is received. If the board member submits a
5 written response, accepts the proposed action, or fails to
6 timely respond, the peer review panel may vote on the proposed
7 action.

8 (3) The peer review panel may vote to take no action
9 or to censure, sanction, or recommend to the State
10 Superintendent of Education that the board member be removed
11 from the local board of education. Any vote shall be by a
12 majority of the peer review panel. A transcript or recording
13 shall be prepared for any matter which results in a hearing
14 before a peer review panel. Documents, evidence, and
15 transcripts or recordings shall remain confidential until such
16 time as the matter is disposed of by the State Superintendent
17 of Education or State Board of Education. Once a matter is
18 disposed of, any testimony or evidence shall be subject to
19 public disclosure, unless the testimony or evidence is deemed
20 confidential by another law or regulation.

21 (4) The State Superintendent of Education may amend,
22 uphold, or reject the recommendation of a peer review panel
23 and may order the matter closed. The State Superintendent of
24 Education may determine if further action is warranted and
25 recommend any of the following to the State Board of
26 Education:

1 a. A formal censure or sanction of the board member
2 including, but not limited to, withholding any compensation.

3 b. Removal of the board member from the local board
4 of education for failing to satisfy mandated residency
5 requirements.

6 c. Removal of the board member from the local board
7 of education for failing to satisfy mandated training and
8 attendance requirements.

9 d. Removal of the board member from the local board
10 of education for conduct found by the State Superintendent of
11 Education to constitute neglect of duty or willful misconduct.

12 Section 8. (a) (1) Nothing in this subsection shall
13 preclude a negotiated resolution of any action that may be
14 proposed or initiated by the State Superintendent of Education
15 under this section, provided that the resolution is suitably
16 memorialized, executed, made a matter of public record, and is
17 consistent with the purposes of this section.

18 (2) No action shall be imposed under this section on
19 the basis of the exercise of personal, political, or other
20 rights of a board member that are protected by the United
21 States Constitution or by any state or federal law.

22 (3) No sanction by the State Superintendent of
23 Education, other than as may be imposed by written agreement
24 with the board member, shall be effective until it is approved
25 by majority vote of the State Board of Education.

26 (4) This subsection shall not impair the ability of
27 the Attorney General, local district attorney, or a citizen to

1 file an impeachment action pursuant to Section 36-11-1, Code
2 of Alabama 1975, or other action allowed by law.

3 (b) A board member subject to action under Sections
4 1 to 8, inclusive, may retain counsel at his or her own
5 expense. A local board of education is not liable or
6 responsible for paying any legal fees accrued by a board
7 member to defend proceedings initiated under Sections 1 to 8,
8 inclusive.

9 Section 9. Sections 16-8-1 and 16-11-2 of the Code
10 of Alabama 1975, are amended to read as follows:

11 "§16-8-1.

12 "(a) The county board of education shall be composed
13 of five members, who shall be elected by the qualified
14 electors of the county.

15 "(b) County boards of education unless otherwise
16 provided by law may use the provisions of this subsection to
17 establish single member election districts with one board
18 member elected from each district. School boards exercising
19 this option may establish five or seven such districts. Such
20 plan shall be considered only after two weeks public notice
21 has been given, outlining generally the school districts under
22 consideration. The members so elected, or appointed in the
23 event of a vacancy, shall be residents of the school district.
24 Such residency shall have been established at least one year
25 before the general election at which the candidate is to be
26 elected, or appointed in the event of a vacancy. Whenever a
27 member of a county board of education moves his or her

1 domicile from the district he or she represents, he or she
2 shall cease to be a member of the county board of education,
3 and a vacancy shall occur. The member shall provide notice of
4 the move to the secretary of the local board of education
5 before the commencement of business at the first meeting of
6 the local board of education following the move. The
7 boundaries of such single member districts shall be determined
8 by a majority vote of the county board of education. The
9 county board of education shall apportion the districts
10 according to the last federal decennial census for the county
11 utilizing the principle of equal representation. Thereafter,
12 each county board of education choosing to implement single
13 member election districts shall reapportion those districts
14 within six months following the publication of the results of
15 each federal decennial census.

16 "(c) No person shall be eligible for election or
17 appointment as a member of a county board of education unless
18 he or she satisfies all of the following qualifications:

19 "(1) Is a person of good moral character.

20 "(2) Has obtained a high school diploma or its
21 equivalent.

22 "(3) Is not employed by that county board of
23 education, unless serving as a member of the county board of
24 education on April 20, 2012.

25 "(4) Is not serving on the governing board of a
26 private elementary or secondary educational institution.

1 "(5) Is not on the National Sex Offender Registry or
2 the state sex offender registry.

3 "(6) Has not been convicted of a felony.

4 "(7) Has attended at least two board of education
5 meetings.

6 "(8) Has received at least two hours of prospective
7 board member training from any source approved by the State
8 Superintendent of Education. The training shall be free of
9 charge and may be completed electronically.

10 "(9) Agrees to comply with the affirmations and code
11 of conduct outlined in the Building Exceptional School Board
12 Teams Act upon election or appointment.

13 "(10) Has not been previously removed from a local
14 board of education for conduct found to be neglect of duty or
15 willful misconduct by the State Superintendent of Education
16 and the State Board of Education.

17 "(d) A member appointed to fill a vacancy on the
18 local board of education is not subject to the meeting and
19 training qualifications.

20 "§16-11-2.

21 "~~The provisions of this~~ This chapter shall apply
22 to city boards of education unless otherwise provided by local
23 law pursuant to Amendment 659 to the Constitution of Alabama
24 of 1901, or any other provision of the Constitution of Alabama
25 of 1901.

26 "(b) The general administration and supervision of
27 the public schools and educational interest of each city shall

1 be vested in a city board of education, to be composed of five
2 members who shall be residents of the city, and who shall not
3 be members of the city council or commission. In any Class 4
4 municipality which has adopted a mayor-council form of
5 government pursuant to Chapter 43B (commencing with Section
6 11-43B-1) of Title 11, the city board of education may be
7 composed of seven members.

8 "(c) No person shall be eligible for election or
9 appointment as a member of a city board of education unless he
10 or she satisfies all of the following qualifications:

11 "(1) Is a person of good moral character.

12 "(2) Has obtained a high school diploma or its
13 equivalent.

14 "(3) Is not employed by that city board of
15 education.

16 "(4) Is not serving on the governing board of a
17 private elementary or secondary educational institution.

18 "(5) Is not on the National Sex Offender Registry or
19 the state sex offender registry.

20 "(6) Has not been convicted of a felony.

21 "(7) For elected board members, has attended at
22 least two board of education meetings in the jurisdiction of
23 residence before his or her name is placed on the ballot.

24 "(8) Has received at least two hours of prospective
25 school board member training from any source approved by the
26 State Superintendent of Education. The training shall be free
27 of charge and may be completed electronically. For appointed

1 board members, the training shall be completed within 90
2 calendar days after appointment to the city board of
3 education.

4 "(9) Agrees to comply with the affirmations and code
5 of conduct outlined in the Building Exceptional School Board
6 Teams Act upon election or appointment.

7 "(10) Has not been previously removed from a local
8 board of education for conduct found to be neglect of duty or
9 willful misconduct by the State Superintendent of Education
10 and the State Board of Education.

11 "(d) A member appointed to fill a vacancy on the
12 board of education is not subject to the meeting and training
13 qualifications.

14 "~~(d)~~(e) In those cities where the members of the
15 city board of education are elected or appointed to represent
16 a district, whenever a member of a city board of education
17 moves his or her domicile from the district he or she
18 represents, he or she shall cease to be a member of the city
19 board of education, and a vacancy shall occur. The member
20 shall provide notice of the move to the secretary of the city
21 board of education before the beginning of business at the
22 first meeting of the city board of education following the
23 move.

24 "~~(e)~~(f) Any city or town which has had the general
25 administration and supervision of the public schools and
26 educational interests of the city or town vested in a city
27 board of education for a period of 20 years or more prior to

1 August 15, 1951, may, except as may be provided by law,
2 continue to have general administration and supervision of the
3 public schools and educational interest under a local board of
4 education regardless of any past or future federal census."

5 Section 10. All laws or parts of laws which conflict
6 with this act are repealed, and specifically, Section
7 16-1-41.1, Code of Alabama 1975, the School Board Governance
8 Improvement Act of 2012, is repealed.

9 Section 11. This act shall become effective January
10 1, 2022, following its passage and approval by the Governor,
11 or its otherwise becoming law.