

1 HB94
2 79666-4
3 By Representatives Graham, Guin, Grantland, Schmitz, Dunn,
4 Salaam, Melton, Major, McDaniel, Martin, Thigpen, Newton (D),
5 Knight, Hurst, Fite, Dukes, Hinshaw, Moore, Warren, Morrow,
6 Millican, Coleman (M), Coleman (L), Layson, McLaughlin, Letson
7 and Robinson (O)
8 RFD: Education Finance and Appropriations
9 First Read: 10-JAN-06
10 PFD: 12/29/2005



1
2 ENROLLED, An Act,

3 Relating to education, to provide for the "School
4 Fiscal Accountability Act"; to create a new chapter in Title
5 16 of the Code of Alabama 1975, dealing with local school
6 board fiscal management; to require local school boards to
7 adopt certain fiscal management policies complying with
8 generally accepted accounting procedures; to provide for the
9 appointment, duties, and responsibilities of the local
10 custodian of funds as the chief school financial officer of
11 the school system; to require certain monthly and annual
12 reports to be provided to local school boards; to establish
13 audit procedures for local boards of education; to establish
14 authority relating to expenditures of funds; to establish
15 standards for reserve funds; to establish criminal penalties
16 for knowingly withholding or providing inaccurate financial
17 information; to establish standards for school board liability
18 for misappropriation of school system funds; to require
19 bonding of certain board employees; to amend Section 16-6B-4
20 of the Code of Alabama 1975, relating to the fiscal status of
21 a local board of education; to repeal Sections 16-8-33,
22 16-9-3, 16-11-6, 16-11-7, 16-13-10, 16-13-11, and 16-13-12 of
23 the Code of Alabama 1975; and in connection therewith would
24 have as its purpose or effect the requirement of a new or

1 increased expenditure of local funds within the meaning of
2 Amendment 621 of the Constitution of Alabama of 1901.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. The purposes of this act are to clarify
5 the fiscal responsibilities of the State Superintendent of
6 Education, local superintendents of education, boards of
7 education, and chief school financial officers selected to
8 carry out the fiscal management responsibilities of local
9 boards of education, and to clarify the intent of the
10 Legislature as to the powers of the State Superintendent of
11 Education and the State Board of Education over local boards
12 of education which are found to be in unsound fiscal
13 condition. This act shall be known and may be cited as the
14 School Fiscal Accountability Act.

15 Section 2. Chapter 13A is added to Title 16 of the
16 Code of Alabama 1975, to read as follows:

17 §16-13A-1. Fiscal management policies.

18 A local board of education, to ensure the sound
19 fiscal management of board finances, upon the recommendation
20 of the local superintendent of education, shall adopt fiscal
21 management policies which comply with generally accepted
22 accounting principles, including, but not limited to, policies
23 related to each of the following:

24 (1) Regular reconciliation of bank statements.

25 (2) Maintenance of fixed assets inventory.

1 (3) Deposit of incoming funds.

2 (4) Review of monthly revenues and expenditures.

3 §16-13A-2. Financial oversight by State
4 Superintendent of Education; appointment and duties of Chief
5 Education Financial Officer; internal audits of schools and
6 school systems.

7 (a) The State Superintendent of Education shall
8 oversee the financial integrity of the various local boards of
9 education and shall appoint a Chief Education Financial
10 Officer who shall be an employee of the State Department of
11 Education. The Chief Education Financial Officer shall be a
12 certified public accountant or have equivalent experience as
13 determined by the State Superintendent of Education, shall
14 have experience in educational or governmental finance, shall
15 complete the instructional program provided in Section
16 16-13A-3 within the later of six months of its introduction or
17 six months of appointment, and shall have passed the mandated
18 competency test provided in Section 16-13A-3 within the later
19 of six months of its adoption or six months of appointment.
20 The Chief Education Financial Officer shall oversee the
21 collection and analysis of the reports required by Section
22 16-13A-6, shall make reports of the financial integrity of the
23 various local boards of education, shall assist school systems
24 whose financial position is deteriorating, and shall make
25 other reports as deemed necessary or as required by law.

1 (b) The State Superintendent of Education may employ
2 a sufficient number of persons to analyze internal audits of
3 the various local boards of education and schools within the
4 limits of available funding. Internal auditors shall possess a
5 Bachelor's degree in accounting or finance and experience in
6 educational or governmental finance.

7 (c) Contracts and employments entered into with
8 funds available to the State Department of Education pursuant
9 to this chapter shall reflect the racial, gender, geographic,
10 urban/rural, and economic diversity of the state. A report
11 shall be made annually to the Legislature detailing the extent
12 to which this subsection has been implemented.

13 §16-13A-3. Financial training of local
14 superintendents of education.

15 (a) The State Superintendent of Education shall
16 develop programs for the instruction and training of local
17 superintendents of education in subjects including finance,
18 instruction, and legal requirements. The instruction and
19 training shall be designed to instill a minimum level of
20 competence in local superintendents of education. Tests of
21 competency shall be administered by the State Superintendent
22 of Education as required by Section 16-1-38.

23 (b) Persons employed before the effective date of
24 this chapter as local superintendents by a local board of
25 education or elected by the people shall complete the mandated

1 training and pass the mandated competency test within three
2 years of the effective date of this chapter unless they shall
3 sooner become employed by another local board of education in
4 which case they shall immediately complete the mandated
5 training and competency test. All local superintendents of
6 education shall complete the mandated training and pass the
7 mandated competency test before being hired or elected as a
8 local superintendent or after assuming office as provided in
9 subsection (c).

10 (c) The State Superintendent of Education, based
11 upon reasonable cause, may allow a newly elected or appointed
12 superintendent to attend and satisfactorily complete the
13 training after assuming office.

14 §16-13A-4. Appointment; removal of chief school
15 financial officer; qualifications.

16 (a) In consultation with the local superintendent of
17 education, the local board of education shall appoint a chief
18 school financial officer who shall be an employee of the
19 board.

20 (b) (1) If the position of chief school financial
21 officer is vacant for 30 days and the local board is not
22 actively seeking to fill the position, the State
23 Superintendent of Education may designate a chief school
24 financial officer for a period of not more than one year,
25 which may be extended from year to year, unless and until the

1 local board appoints a person who meets the established
2 qualifications. In addition, the State Superintendent of
3 Education shall designate a chief school financial officer if
4 the position has been vacant for more than 60 days.

5 (2) A person designated as chief school financial
6 officer by the State Superintendent of Education may not be
7 unilaterally removed from that position by the local board of
8 education pursuant to subsection (c) without the prior
9 approval of the State Superintendent of Education, but may be
10 replaced after one year by a qualified person selected by the
11 local board.

12 (c) Except as specified in subdivision (2) of
13 subsection (b), a local board of education, upon a majority
14 vote of its members, shall have unilateral authority to remove
15 the chief school financial officer.

16 (d) A person designated as a chief school financial
17 officer shall meet the minimum job qualifications established
18 by the local board and the State Board of Education and shall
19 possess or be eligible to possess certification required
20 pursuant to regulations promulgated by the State Board of
21 Education.

22 §16-13A-5. Supervision, fiduciary responsibility of
23 chief school financial officer; duties.

24 (a) The chief school financial officer shall work
25 under the direct supervision of the local superintendent of

1 education but shall have a fiduciary responsibility to the
2 local board of education.

3 (b) The chief school financial officer shall perform
4 each of the following duties:

5 (1) Verify the receipt of all funds to which the
6 local board of education may be entitled by law or which may
7 come into its possession for public school purposes.

8 (2) Verify the payment of such funds, such payments
9 to occur only on written order of the local superintendent of
10 education.

11 (3) Keep an accurate record of all receipts and
12 expenditures, and provide such information to the local
13 superintendent and the local board.

14 (4) Make reports as may be required by law, by the
15 local board of education, or by rules and regulations of the
16 State Board of Education.

17 (5) Personally notify, in writing, each board member
18 and the local superintendent of education of any financial
19 transaction of the local board of education which the chief
20 school financial officer deems to be non-routine, unusual,
21 without legal authorization, or not in compliance with the
22 fiscal management policies of the board. The notification
23 shall be recorded in the minutes of the board by the president
24 of the local board of education.

1 (6) Be bonded in an amount determined by the State
2 Board of Education.

3 §16-13A-6. Required reports.

4 (a) The State Board of Education shall by regulation
5 provide for various financial and other information which
6 local superintendents of education shall have prepared for the
7 local boards of education, including, but not limited to, the
8 following:

9 (1) A monthly financial statement showing the
10 financial status of the local board of education accounts with
11 itemized categories specified by the State Board of Education.

12 (2) A monthly report showing all receipts and the
13 sources thereof.

14 (3) A monthly report showing all expenditures with
15 itemized categories specified by the State Board of Education.

16 (4) An annual projected budget.

17 (5) Monthly and/or quarterly reports showing
18 expenditures relative to such projected budget.

19 (6) A yearly report of the fixed assets inventory of
20 the local board of education with itemized categories
21 specified by the State Board of Education.

22 (7) Financial and other information necessary to
23 participate in national statistical studies on education.

24 (b) The financial information required in subsection
25 (a), as well as any other financial information which the

1 State Board of Education shall require, shall be submitted in
2 writing and/or electronically to the Chief Education Financial
3 Officer by the 15th day of the month following its
4 presentation to the local board of education.

5 (c) All local boards of education shall be required
6 to implement a standardized financial accounting program as
7 determined by the State Department of Education to collect the
8 information required by this chapter and to provide for ease
9 of input by local boards of education and ease of monitoring
10 by a local board of education, its Chief Finance Officer, and
11 the State Department of Education. If a local school system's
12 financial report is found to be in conflict with generally
13 accepted accounting principles, the State Department of
14 Education shall issue a notice to that school system informing
15 it of such and request that proof of correction of conflict be
16 forwarded to the State Department of Education and approved by
17 the State Superintendent of Education within a reasonable time
18 thereafter.

19 (d) All financial documents, in whatever source
20 maintained, are public documents, and shall be open to
21 inspection and accessible to the public. An annual budget and
22 monthly financial statements with supporting spread sheets as
23 submitted to the State Department of Education shall be made
24 available to the general public at the local school system
25 internet site.

1 §16-13A-7. Audits.

2 (a) (1) The yearly business and financial
3 transactions of a local board of education shall be audited as
4 early as possible after the end of the fiscal year.

5 (2) The audits of the books and accounts of local
6 boards of education shall be conducted by the Department of
7 Examiners of Public Accounts. The Department of Examiners of
8 Public Accounts shall audit, review, and otherwise investigate
9 the receipts and disbursements of funds of each local board in
10 the same manner as audits are performed on other agencies and
11 departments of the State of Alabama.

12 (3) Any local board of education governing a city
13 school system, other than those city systems required by law
14 to be audited by the Department of Examiners of Public
15 Accounts on the effective date of the act adding this
16 language, may employ a certified public accounting firm or
17 firms or use the Department of Examiners of Public Accounts to
18 perform its yearly financial audit of its books and accounts
19 including a legal compliance audit and program compliance
20 audit. The foregoing to the contrary notwithstanding, a city
21 system which has had any financial form of intervention by the
22 State Superintendent of Education shall be audited by the
23 Department of Examiners of Public Accounts, or if any such
24 intervention should become necessary at any future date, such
25 city system shall be audited for three future years by the

1 Department of Examiners of Public Accounts. The Department of
2 Examiners of Public Accounts or the certified public
3 accounting firm or firms shall perform a yearly legal
4 compliance audit in accordance with Chapter 5, commencing with
5 Section 41-5-1, of Title 41, and if the compliance audit
6 results in adverse findings by the Department of Examiners of
7 Public Accounts or the certified public accounting firm or
8 firms, the adverse findings shall be reported to the State
9 Superintendent of Education. If the adverse findings involve
10 misappropriation or theft, such findings shall also be
11 reported to the appropriate district attorney and the Attorney
12 General.

13 Legal compliance audits and program compliance
14 audits performed by a private certified public accounting firm
15 shall adhere to the standards of the Department of Examiners
16 of Public Accounts for each respective type of audit. The
17 Department of Examiners of Public Accounts shall provide these
18 standards to the private certified public accounting firms.
19 Any adverse findings shall be noted in the audit report and
20 reported to the State Superintendent of Education. Such
21 adverse findings shall, upon request, be provided to any
22 member of the public.

23 (b) A local board of education may request an audit
24 of system funds under control of the same local board by the
25 Department of Examiners of Public Accounts whenever there is a

1 permanent change in the position of local superintendent of
2 education or chief school financial officer.

3 (c) A local board of education by majority vote may
4 unilaterally request an audit of any school or school system
5 account under control of the same local board by the
6 Department of Examiners of Public Accounts, if the board deems
7 such action is in the best interest of the school system.

8 (d) The findings of audits conducted pursuant to
9 this section shall be presented to the local board of
10 education in a board meeting. The State Superintendent of
11 Education shall be sent a copy of the audit to review and
12 shall be notified of the time, place, and location of the
13 meeting at which the findings will be presented to the local
14 board of education. Audits are public records.

15 §16-13A-8. Authority to expend funds.

16 Each local board of education shall adopt
17 procedures relating to the expenditure of funds which do not
18 require express board approval prior to the expenditure. A
19 local superintendent of education, subject to these policies
20 and board-approved budget limitations, may expend funds
21 without prior approval of the board. All such expenditures
22 shall be included in the monthly report to the board of
23 expenditures required pursuant to this chapter.

24 §16-13A-9. Reserve funds.

1 A local board of education shall develop a plan to
2 establish and maintain a minimum reserve fund equal to one
3 month's operating expenses.

4 §16-13A-10. Penalties for failing to comply with
5 chapter. If an employee or official of a local board of
6 education deliberately, willfully, or wantonly fails to
7 provide the local board of education, the State Department of
8 Education, the State Superintendent of Education, or the Chief
9 Education Financial Officer with accurate information required
10 pursuant to this chapter or pursuant to regulations of the
11 State Department of Education or the State Board of Education,
12 or if the employee knowingly, willfully, or wantonly provides
13 inaccurate information, the employee is guilty of a Class A
14 misdemeanor.

15 §16-13A-11. Liability.

16 No individual member of a local board of education
17 shall be held financially liable for misappropriation of funds
18 of the local board of education unless the individual acts
19 willfully, maliciously, fraudulently, in bad faith beyond his
20 or her authority, or pursuant to a mistaken interpretation of
21 the law.

22 §16-13A-12. Bonding.

23 (a) The following officers and employees of a local
24 board of education shall be bonded in amounts fixed by the

1 local board of education and approved by the State
2 Superintendent of Education:

3 (1) Local superintendents of education.

4 (2) Chief school financial officers.

5 (3) Any other employee of a local board handling
6 local board of education funds as required by the board.

7 (b) The Chief Education Financial Officer shall be
8 bonded in an amount fixed by the State Superintendent of
9 Education and approved by the State Board of Education.

10 (c) A certified copy of the bond shall be filed with
11 the State Superintendent of Education.

12 §16-13A-13.

13 Budget and financial information used for public
14 hearings on local district budgets shall be published on a
15 form provided by the State Superintendent of Education. Such
16 information shall contain financial information at both the
17 school and school district levels.

18 Section 3. Section 16-6B-4 of the Code of Alabama
19 1975, is amended to read as follows:

20 "§16-6B-4.

21 ~~"In addition to providing quality instruction in~~
22 ~~classrooms, all local boards of education must be fiscally~~
23 ~~accountable. The local boards of education shall be required~~
24 ~~to provide annually financial documents, including but not~~
25 ~~limited to annual budgets and financial statements which are~~

1 ~~cost center based (school, area vocational/technical center),~~
2 ~~program based (regular education, special education,~~
3 ~~vocational education, etc.), and funding source based (local,~~
4 ~~state and federal). Just as local boards of education may be~~
5 ~~in need of assistance based on student achievement, they may~~
6 ~~also be in an unsound fiscal condition. The State Board of~~
7 ~~Education is directed to require, approve and audit budgets,~~
8 ~~financial statements, and other reports which may be deemed~~
9 ~~necessary to assess the financial stability of each local~~
10 ~~board of education. If Following the analysis of the financial~~
11 ~~integrity of each local board of education as provided in~~
12 ~~subsection (a) or (b) of Section 16-13A-2, if a local board of~~
13 ~~education is determined to have submitted a fiscally unsound~~
14 ~~budget financial reports, the State Department of Education~~
15 ~~will shall provide assistance and advice to complete and~~
16 ~~submit a revised budget. If during the assistance in preparing~~
17 ~~a revised budget the State Superintendent of Education~~
18 ~~determines that the local board of education is in an unsound~~
19 ~~fiscal position, a person or persons will shall be appointed~~
20 ~~by the State Superintendent of Education to advise the~~
21 ~~day-to-day financial operations of the local board of~~
22 ~~education. If after a reasonable period of time the State~~
23 ~~Superintendent of Education determines that the local board of~~
24 ~~education is still in an unsound fiscal condition, a request~~
25 ~~will shall be made to the State Board of Education for the~~

1 direct control of the fiscal operation of the local board of
2 education. If the request is granted, the State Superintendent
3 of Education shall present to the State Board of Education a
4 proposal for the implementation of management controls
5 necessary to restore the local school system to a sound
6 financial condition. Upon approval by the State Board of
7 Education, the State Superintendent of Education ~~will~~ shall
8 appoint an individual to be chief financial officer to manage
9 the fiscal operation of the local board of education, until
10 such time as the fiscal condition of the system is restored.

11 The chief financial officer shall perform his or her duties in
12 accordance with rules and regulations established by the State
13 Board of Education in concert with applicable Alabama law.

14 ~~Persons~~ Any person appointed by the State Superintendent of
15 Education to serve as chief financial officer to manage the
16 fiscal operation of a local board of education shall be
17 required to give bond with a surety company authorized to do
18 business in Alabama and shall not be required to receive
19 approval of the local superintendent to expend monies ~~as~~
20 ~~provided in Sections 16-8-33 and 16-11-6. The State~~
21 ~~Superintendent of Education shall have the authority to review~~
22 ~~decisions of the chief financial officer and the local board~~
23 ~~of education pursuant to Section 16-4-8. The chief financial~~
24 officer shall serve at the pleasure and under the direction of
25 the State Superintendent of Education. The State

1 Superintendent of Education, directly or indirectly through
2 the chief financial officer, may direct or approve such
3 actions as may in his or her judgment be necessary to: (1)
4 Prevent further deterioration in the financial condition of
5 the local board; (2) restore the local board of education to
6 financial stability; and (3) enforce compliance with
7 statutory, regulatory, or other binding legal standards or
8 requirements relating to the fiscal operation of the local
9 board of education. Nothing in Chapter 13A or this section
10 shall be construed to deprive any employee of any procedural
11 or substantive right that would otherwise be guaranteed to the
12 employee under the United States Constitution and the laws of
13 the State of Alabama."

14 Section 4. If a court of competent jurisdiction
15 adjudges invalid or unconstitutional any clause, sentence,
16 paragraph, section, or part of this act, such judgment or
17 decree shall not affect, impair, invalidate, or nullify the
18 remainder of this act, but the effect of the decision shall be
19 confined to the clause, sentence, paragraph, section, or part
20 of this act adjudged to be invalid or unconstitutional.

21 Section 5. All laws or parts of laws which conflict
22 with this act are repealed, and Sections 16-8-33, 16-9-3,
23 16-11-6, 16-11-7, 16-13-10, 16-13-11, and 16-13-12 of the Code
24 of Alabama 1975, are specifically repealed.

1 Section 6. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621 because the
5 bill requires expenditures only by a school board and defines
6 a new crime or amends the definition of an existing crime.

7 Section 7. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.

Monty H. Smith

Speaker of the House of Representatives

Lucy Baxley

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 19-JAN-06, as amended.

Greg Pappas
Clerk

Senate

02-MAR-06

Passed

APPROVED March 9, 2006
TIME 9:35 a.m.
Bob Riley
GOVERNOR

Alabama Secretary of State
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Bill Num....: H-94
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