

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Thicksten**
5
6

A Bill

ACT 314 OF 1993
HOUSE BILL 1166

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §§ 6-20-401 AND 6-20-402 TO
9 AUTHORIZE THE STATE BOARD OF EDUCATION TO WITHHOLD STATE
10 AID FROM SCHOOL DISTRICTS THAT ARE DELINQUENT IN PAYING
11 CURRENT INDEBTEDNESS OR POSTDATED WARRANTS; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

13
14 **"TO AUTHORIZE THE STATE BOARD OF EDUCATION TO**
15 **WITHHOLD STATE AID FROM SCHOOL DISTRICTS THAT**
16 **ARE DELINQUENT ON CURRENT INDEBTEDNESS."**
17

18
19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**
20

21 **SECTION 1. Arkansas Code § 6-20-401 is hereby amended to read as follows:**

22 **"6-20-401. Definitions.**

23 **As used in this subchapter, unless the context otherwise requires:**

24 **(1) _Revenue receipts of a school district_ means those receipts that do not result in**
25 **increasing school indebtedness or in depleting school property. Specifically, revenue receipts**
26 **of a school district for any fiscal year shall consist of the following funds:**

27 **(A) Net cash balance on hand at the beginning of the school fiscal year, July 1;**

28 **(B) The remaining net proceeds of local taxes collected in the calendar year in**
29 **which the school fiscal year started plus forty percent (40%) of the proceeds of the local taxes**
30 **which are not pledged to secure bonded indebtedness collected in the succeeding calendar**
31 **year. This forty percent (40%) shall be determined by applying the following formula:**
32 **Assessed valuation multiplied by the tax rate which is not pledged to secure bonded**
33 **indebtedness multiplied by forty percent (40%);**

34 **(C) The net proceeds of all other funds accrued or placed to the credit of the**
35 **district during the fiscal year from regular revenue sources including, but not limited to, state**
36 **and federal funding.**

1 **(2) _Nonrevenue receipts of a school district_ means those receipts which either incur**
2 **an obligation which must be met at some future date or which change the form of an asset from**
3 **property to cash. Specifically, they consist of the proceeds of a bond sale, payment of losses on**
4 **an insurance policy, the receipts from the sale of property, etc.**

5 **(3) _Current indebtedness_ means a debt obligation incurred by a school district for**
6 **the purpose of paying maintenance or general operation expenses for the fiscal year in which**
7 **the debt is incurred or for a purpose for which a postdated warrant, installment contract, or**
8 **lease purchase agreement may be issued."**

9
10 **SECTION 2. Arkansas Code § 6-20-402 is hereby amended to read as follows:**

11 **"6-20-402. Limitation on current indebtedness - Postdated warrants and installment**
12 **contracts - Liability.**

13 **(a) The amount of obligations incurred by a school district for any school fiscal year**
14 **shall not be in excess of the revenue receipts of the district for that year except as provided**
15 **herein and in Subchapters 8 and 12 of Chapter 20 of Title 6 of the Arkansas Code of 1987**
16 **Annotated. School districts may issue postdated warrants or enter into installment contracts**
17 **or lease purchase agreements for the following purposes:**

18 **(1) Purchase of school buses;**

19 **(2) Payment of premiums of insurance policies on school buildings, facilities,**
20 **and equipment in instances where the insurance coverage extends three (3) years or longer;**

21 **(3) Purchase of equipment;**

22 **(4) Repair and renovation of school facilities;**

23 **(5) Purchase of school sites; and**

24 **(6) Payment of the district's pro rata part of employing professional appraisers**
25 **as authorized by laws providing for the appraisal, or reappraisal, and assessment of property**
26 **for ad valorem tax purposes.**

27 **(b)(1) Postdated warrants, lease purchase agreements, and installment contracts must**
28 **be paid within six (6) years of the date of issuance of the postdated warrant or the execution of**
29 **the written lease purchase agreement or installment contract, as the case may be. Postdated**
30 **warrants, lease purchase agreements, and installment contracts must be registered, on forms**
31 **provided by the State Board of Education, with the treasurer of the district and the State**
32 **Board of Education.**

33 **(2) Lease purchase agreements and installment contracts must have attached**
34 **thereto a schedule of the rent or installments to be paid showing:**

35 **(A) The payee and any assignee;**

1 **(B) The school district;**
2 **(C) The purpose of the purchase or payment;**
3 **(D) The due date of each installment;**
4 **(E) The amount of principal and interest of each installment and the**
5 **fiscal year in which such installment is to be paid. A copy of each such contract and of the**
6 **schedule of payments thereon shall be filed with the treasurer of the district and the State**
7 **Board of Education, and when so filed each installment may be paid as it becomes due.**

8 **(3) The unpaid principal amount of postdated warrants issued and installment**
9 **contracts and lease purchase agreements entered into shall be a part of the total debt of the**
10 **district as limited by §§ 6-20-803 and 6-20-1202, as amended, with the district fiscal officer**
11 **and his surety liable for exceeding such limitations.**

12 **(4) Payments by a school district pursuant to postdated warrants, installment**
13 **contracts and lease purchase agreements shall be charged against the budget of the school**
14 **fiscal year in which they become due and shall be paid out of the revenue receipts for that fiscal**
15 **year.**

16 **(5) All warrants issued or installment contracts and lease purchase agreements**
17 **entered into in excess of the revenue of a school district for a school fiscal year, except as**
18 **herein provided, are null and void.**

19 **(6) It shall be the duty of the school fiscal officer to indicate on each school**
20 **district warrant or on the schedule of payments attached to a written installment contract or**
21 **lease purchase agreement, the school year's revenues against which the obligation was**
22 **incurred and is to be paid, and it shall be unlawful for the school fiscal officer to issue a school**
23 **district warrant or enter into an installment contract or lease purchase agreement, the**
24 **installments for which are to be charged against the revenues of a school year if the obligation**
25 **thereof was incurred in a different school year, except as otherwise authorized herein.**

26 **(7) The school fiscal officer may comply with the provisions hereof by indicating**
27 **on each warrant or schedule of payments attached to any installment contract or lease**
28 **purchase agreement the school year's revenues against which each payment is to be charged, or**
29 **he may use a warrant of a distinct color for a particular year and shall advise the county**
30 **treasurer in writing of the color of warrant being used for credit against the revenues of a**
31 **particular year.**

32 **(8) The county treasurer and his surety shall be jointly liable with the school**
33 **fiscal officer and his surety for the payment of any school warrant or payment on a contract or**
34 **agreement which is charged against the revenues of a school year if the amount thereof is in**
35 **excess of the revenue receipts of the district for the school year against which the school fiscal**

1 officer has indicated the payment is to be charged, or where he approved the payment with
2 knowledge that the payment is being charged by the school fiscal officer against the revenues of
3 another school year in violation of this section.

4 (9) It is the purpose and intent of this section to place primary responsibility on
5 the school fiscal officer and his surety for compliance with the provisions of this section, and to
6 make the county treasurer and his surety liable for any payment on a warrant, contract, or
7 agreement drawn in violation of this section where the amount of the payment exceeds the
8 revenue receipts of the district for the school year against which it is charged as indicated on
9 the warrant, contract, or agreement or where the county treasurer approves a payment with
10 the knowledge that it is in payment of an obligation of a different school year as prohibited in
11 this section.

12 (c) A school district may incur current indebtedness and issue its notes or other
13 evidence thereof as provided in this subsection.

14 (1) All current indebtedness incurred in a fiscal year shall mature on or before
15 December 31 of the calendar year in which the fiscal year ends.

16 (2) Current indebtedness is not included in the term bonded indebtedness
17 and shall not be considered a part of the total debt of a district as limited by §§ 6-20-803 and
18 6-20-1202, as amended.

19 (3) Current indebtedness shall be payable from, and may be secured by a pledge
20 of all or any part of the revenue receipts of the issuing district for the fiscal year in which the
21 debt is incurred.

22 (4) The amount of obligations incurred by a school district for any school fiscal
23 year, including current indebtedness, shall not, except as expressly authorized in subsection
24 (a), be in excess of the revenue receipts of the district for that year.

25 (d) As additional security for the payment of any postdated warrant or current
26 indebtedness of a school district, the district may authorize the State Board of Education to
27 cure any delinquencies in payment by withholding state aid due the district under Subchapter
28 3 of Chapter 20, Title 6, of the Arkansas Code of 1987 Annotated. Such authorization shall be
29 given at the time the warrant is issued or the current indebtedness is incurred, and shall be
30 given in such manner and in such form as the State Board of Education shall prescribe. If the
31 debtor district has authorized withholding of state aid, whenever the payee or the designated
32 paying agent for receipt of the district's payments does not receive a payment when due
33 pursuant to the authorizing documents, the payee or paying agent will be entitled to payment
34 from the withheld state aid in an amount sufficient to cure the payment deficiency upon
35 notifying the Director of General Education and the superintendent of the district by

1 telephone, facsimile, or other similar communication, followed by written verification. Unless
2 the Director determines that payment has been made by the district and there is no longer a
3 payment deficiency, the Director shall withhold from the next distribution of state aid and
4 remit to the payee or paying agent an amount sufficient to cure the deficiency. In the event the
5 amount next due to be distributed to the delinquent district is not sufficient to cure the
6 delinquency, the Director shall continue to withhold state aid as due and remit it to the payee
7 or paying agent until the payment deficiency has been cured. If the Director is notified that a
8 district is delinquent on two (2) or more obligations for which a district has authorized
9 withholding of state aid to cure a delinquency, the Director shall make payment to payees or
10 paying agents in the order of receipt of notices of the delinquency.

11 *(e) Provided, however, that the entitlement created in subsection (d) shall be*
12 *applicable only to that portion of Minimum Foundation Program Aid that the debtor district*
13 *would otherwise receive in the absence of any debt created pursuant to this section; and*
14 *provided further that any duties required of any officer of the state pursuant to subsection (d)*
15 *shall be only ministerial in nature and shall in no way transfer any liability of the debtor*
16 *district to the state, any agency or any officer thereof.*

17 *(f) The rate of interest on postdated warrants, installment contracts, lease purchase*
18 *agreements and current indebtedness shall not exceed the maximum interest rate for school*
19 *bonds as determined under § 6-20-1206."*

20
21 **SECTION 3.** All provisions of this act of a general and permanent nature are
22 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision
23 Commission shall incorporate the same in the Code.

24
25 **SECTION 4.** If any provision of this act or the application thereof to any person or
26 circumstance is held invalid, such invalidity shall not affect other provisions or applications of
27 the act which can be given effect without the invalid provision or application, and to this end
28 the provisions of this act are declared to be severable.

29
30 **SECTION 5.** All laws and parts of laws in conflict with this act are hereby repealed.

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32 **SECTION 6. EMERGENCY.** The General Assembly hereby defines and determines
33 that the authorization herein for the withholding of state aid to cure payment deficiencies by
34 school districts will permit Arkansas school districts to borrow money for current needs on
35 favorable terms without providing letters of credit or other credit enhancement, and that this

1 **legislation must be in effect in order to permit these benefits to school districts participating in**
2 **the pooled cash flow program for the 1993-94 school year. Therefore, an emergency is**
3 **declared to exist and this Act, being necessary for the preservation of the public peace, health**
4 **and safety, shall be in full force and effect immediately upon its adoption and approval.**

5

/s/E. Thicksten

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APPROVED: 03/02/93

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