

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S2/15/01

A Bill

Act 1036 of 2001
SENATE BILL 192

5 By: Senator Mahony
6
7

For An Act To Be Entitled

9 AN ACT TO CLARIFY THE RIGHTS AND DUTIES OF THE COUNTY
10 BOARDS OF EDUCATION, THE COUNTY SCHOOL SUPERVISORS,
11 AND THE COUNTY BOARD OF EDUCATION DESIGNEES; AND FOR
12 OTHER PURPOSES.
13

Subtitle

14 AN ACT TO CLARIFY THE RIGHTS AND DUTIES
15 OF THE COUNTY BOARDS OF EDUCATION, THE
16 COUNTY SCHOOL SUPERVISORS, AND THE
17 COUNTY BOARD OF EDUCATION DESIGNEES.
18
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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code 6-10-102 is amended to read as follows:
24 6-10-102. Penalty.

25 Any officer or employee of the State Board of Education, county board of
26 education, or school district board of directors who shall willfully fail or
27 refuse to comply with any provisions of the School Law for which no punishment
28 is otherwise provided by law shall be deemed guilty of a misdemeanor and shall
29 be fined in any sum not less than ten dollars (\$10.00) nor more than five
30 hundred dollars (\$500).
31

32 SECTION 2. Arkansas Code 6-12-114 is amended to read as follows:
33 6-12-114. Implementation.

34 (a)(1) ~~Prior to July 1, 2000, all county boards of education, county~~
35 ~~board of education designees, and county school supervisors shall~~ Except as
36 set forth subdivision (a)(2) of this subsection, all county boards of

1 education in existence prior to July 1, 2000, shall transfer all records,
 2 written or electronic, to either the respective county clerk, the respective
 3 county quorum court, the State Board of Workforce Education and Career
 4 Opportunities, the Department of Workforce Education, the State Board of
 5 Education, or the Department of Education, whichever may be appropriate.

6 (2)(A) If a county had a full-time county school supervisor or
 7 county board of education designee on January 1, 1999, who was not employed
 8 more than fifty percent (50%) of the time in other employment or duties other
 9 than as county school supervisor or county board of education designee, then
 10 that individual may continue acting as county school supervisor or county
 11 board of education designee with all the duties, responsibilities, and rights
 12 appertaining until: ~~such time that said individual leaves such position.~~

13 (i) The county board of education abolishes itself;

14 (ii) The county school supervisor or county board of
 15 education designee is terminated by the board; or

16 (iii) The county school supervisor or county board of
 17 education designee leaves the position.

18 (B) If subdivision (a)(2)(A) of this section controls, then
 19 the county board of education shall also exist until such time that the office
 20 is dissolved under subdivision (a)(2)(A).

21 (C) If subdivision (a)(2)(A) of this section controls, it
 22 is the intent of the General Assembly that the funding of the county board of
 23 education, as it existed on or before January 1, 1999, shall continue until
 24 such time that the office is dissolved under subdivision (a)(2)(A).

25 (b)(1)~~(A)~~ Any and all funds received via an award or grant under the
 26 control of the county board of education abolished under subsection (a), the
 27 county board of education designee, or the county school supervisor whose
 28 position was abolished under subsection (a) which use is restricted by the
 29 terms of the award or grant under which the moneys were received shall revert
 30 to the agency which awarded the funds unless otherwise specified in the terms
 31 of the award or grant.

32 ~~(B)(2)~~ Any and all funds under the control of any county board of
 33 education abolished under subsection (a), county board of education designee,
 34 or county school supervisor whose position was abolished under subsection (a)
 35 shall first be used to satisfy all legal debts and obligations of the county
 36 board of education, and all remaining funds shall revert to the common or

1 general school fund of the respective county for redistribution to the school
 2 districts domiciled in that county in accordance with existing law.

3 ~~(2) Any and all funds above under the control of any county board~~
 4 ~~of education, county board of education designee, or county school supervisor~~
 5 ~~remaining after the implementation of subdivision (b)(1) of this section shall~~
 6 ~~revert to the common or general school fund of the respective county for~~
 7 ~~redistribution to the school districts domiciled in that county in accordance~~
 8 ~~with existing law.~~

9 (c)(1) Any and all real and personal property belonging to the county
 10 board of education abolished under subsection (a) shall first be sold at
 11 public auction if after the implementation of subdivision (b)(1) of this
 12 section, there are still legal debts and obligations. If any excess moneys
 13 from such an auction exist after the payments of legal debts and obligations,
 14 those excess moneys shall be distributed according to subdivision (b)(2) of
 15 this section.

16 (2) If no legal debts or obligations exist after the
 17 implementation of subdivision (b)(1) of this section, any and all real and
 18 personal property of the county board of education shall become the property
 19 of the local school district which contains the county seat of government
 20 until such time that all school districts domiciled in the county have entered
 21 into a written agreement as to the disposition of the real and personal
 22 property of the county board of education. Such written agreement must be
 23 finalized within twelve (12) months after July 1, 2000.

24 (d) The provisions in subdivisions (a)(1), (b)(1), (b)(2), (c)(1) and
 25 (c)(2) of this section shall not include or apply to any funds, written or
 26 electronic records, real or personal property, or both, belonging to or
 27 purchased with funding for adult education programs or general educational
 28 development testing centers supported through state or federal adult education
 29 funds, or both. All such funds, written or electronic records, real or
 30 personal property, or both, including applicable real estate titles, will be
 31 transferred to the State Board of Workforce Education and Career Opportunities
 32 or any eligible entity approved by the board.

33
 34 SECTION 3. Arkansas Code Title 6, Chapter 12 is amended by adding a new
 35 subchapter to read as follows:

36 6-12-301. Creation - Members generally.

1 (a) If a county has a county school supervisor or county board of
2 education designee as set forth in § 6-12-201, the county shall also have a
3 county board of education composed of five (5) members.

4 (b) The members of county boards of education shall be qualified
5 electors known for their good moral character, honesty, industry, public
6 spirit, and interest in education, and who do not hold any salaried or fee
7 office of the state or any political subdivision thereof.

8 (c) The term of office for a member of the county board shall be five
9 (5) years, provided that any member of the board of education shall hold
10 office until a successor has been elected or appointed and qualified.

11 (d) A member may succeed himself.

12 (e) The county board of election commissioners shall notify each person
13 elected or appointed, in accordance with the provisions of this chapter, as a
14 member of the county board.

15 (f) A change of residence from the county zone shall automatically
16 disqualify the member from serving out the term for which the member was
17 elected.

18 (g) If a vacancy occurs on the board, the vacancy shall be filled by a
19 vote of a majority of the remaining members. If the remaining members fail to
20 fill a vacancy within sixty (60) days after the date of vacancy, the vacancy
21 shall be filled by appointment by the county judge. If, as a result of
22 several vacancies, only a minority of the board remains, then the county judge
23 shall fill all the vacancies by appointment. Appointed members shall have the
24 same qualifications as elected members and shall serve a full five (5) year
25 term.

26 (h) The members of the county board shall serve without compensation
27 but shall be allowed actual expenses incurred in traveling to official
28 meetings of the board and in the performance of the official business of the
29 county board. The amount of one hundred dollars (\$100), or so much thereof as
30 is needed, shall be allowed annually from the county general school fund for
31 this purpose. If, in the judgment of the county judge and the unanimous
32 opinion of the members of the county board, additional funds are necessary, an
33 additional one hundred dollars (\$100) may be allowed annually.

34 (i) Any person elected or appointed to serve as a member of the county
35 board of education on or before July 1, 2000, may complete the term for which
36 the person was elected and shall hold office until a successor has been

1 appointed and qualified.

2
3 6-12-302. Members - Counties with only one school district.

4 (a) In counties having only one (1) school district, the board of
5 directors of that district shall act as the county board of education.

6 (b) The county boards of education may hire the staff they deem
7 necessary and establish the salaries for that staff. The county board shall
8 not hire a county school supervisor or county board of education designee
9 after the termination of employment of the county school supervisor or county
10 board of education designee employed after December 31, 1998.

11
12 6-12-303. Oath.

13 (a) Each elected or appointed member of the county board of education
14 shall, within fifteen (15) days after the election or appointment, subscribe
15 in writing to the following oath:

16 "I _____, do hereby solemnly swear or affirm that I will support the
17 Constitution of the United States and the Constitution of the State of
18 Arkansas, and that I will not be financially interested, directly or
19 indirectly, in any contract made by the county board of which I am a member,
20 or by any board of school directors of the county, except for contracts for
21 materials bought on open competitive bid and let to the lowest bidder
22 conforming to specifications; and that I will faithfully discharge the duties
23 of a member of the county board of education, upon which I am about to enter."

24 (b) The county clerk, upon receipt of oaths for the county board
25 members, shall immediately commission such persons, and they shall enter at
26 once upon their duties as members of the county board of education.

27
28 6-12-304. Organization.

29 During the meeting on the fourth Tuesday of September the members of the
30 county board of education shall elect one (1) of its members as chairman and
31 the board shall designate an ex officio secretary of the board.

32
33 6-12-305. Meetings.

34 (a) The county board of education shall meet on the fourth Tuesday of
35 March, June, September, and December of each year and at other times as
36 meetings may be adjourned to, or on call of the chairman, the county school

1 supervisor or county board of education designee, or any three (3) members of
2 the board.

3 (b) Notice of called meetings must be given in writing to each member
4 of the board.

5
6 6-12-306. Powers and duties.

7 It shall be the duty of the county board of education to supervise
8 and direct all of its employees in the performance of their duties.

9 (b) The board's duties shall also include, but shall not be limited to,
10 the following:

11 (1) To cause to be set aside from funds in the county general
12 school fund amounts necessary for the expenses of the board and of any
13 designee;

14 (2) To appoint new members when a vacancy occurs on the board;

15 (3) To terminate the position of the county supervisor or county
16 board of education designee;

17 (4) To abolish the board upon the termination of the county
18 supervisor or county board of education designee; and

19 (5) To transfer to the respective county clerk, the respective
20 county quorum court, the State Board of Workforce Education and Career
21 Opportunities, the Department of Workforce Education, the State Board of
22 Education, or the Department of Education, whichever may be appropriate, all
23 records of the county board upon abolishment.

24 (c) In any county in which a county board of education is still in
25 existence, the county board of education may enter into a written agreement
26 with other county officials that would allow the county board of education or
27 its employees to undertake any or all duties of county officials as it
28 pertains to education or school districts administered in the county.

29
30 6-12-307. Appeal - Bond.

31 (a) Any person being a party to the record or proceeding in a matter
32 brought before any county board of education who feels aggrieved by any final
33 order or decision of the board of education may prosecute an appeal from any
34 final order or decision, provided the person shall, within thirty (30) days
35 from the date of the final order or decision complained of:

36 (1) Make an affidavit that the appeal taken from the final order

1 or decision of the county board of education is not taken for the purpose of
2 delay; and

3 (2) Enter into a bond with good and sufficient surety thereon, in
4 the sum as shall be ordered by the board of education, not to exceed twice the
5 amount involved in the appeal. Where no money or property is involved in the
6 proceeding from which the appeal is prosecuted, the appeal bond should be
7 given by the appellant in a sum that will protect the appellee and the county
8 board of education from payment of cost, which amount shall be endorsed by the
9 secretary of the board of education on the affidavit of the appellant in a sum
10 to be fixed by the board of education.

11 (b) The appeal herein provided shall be to the circuit court of the
12 district or division in which the county board of education shall be sitting
13 at the time of the final decision or order complained of.

14
15 6-12-308. Credentials.

16 (a)(1) If a county had a full-time county school supervisor or county
17 board of education designee on January 1, 1999, who was not employed more than
18 fifty percent (50%) of the time in other employment or duties other than as
19 county school supervisor or county board of education designee, the county
20 board of education may continue to employ that person to be county school
21 supervisor or county board of education designee; and

22 (2)(A) The county board of education may contract with that
23 person for service for a term of one (1) or two (2) years, subject to
24 reemployment, provided that no spouse of a member of the county board of
25 education nor any person related within the fourth degree of consanguinity or
26 affinity to any member of the county board of education shall be eligible for
27 employment.

28 (B) Any employment contract between the county board of
29 education and a county school supervisor or county board of education designee
30 shall contain a provision to allow termination of the contract without
31 penalty, if the position is terminated because the county board is abolished.

32 (b) The county boards of education shall have the power and authority
33 to abolish the office of the county school supervisor or county board of
34 education designee in their respective counties.

35 (c) Upon the termination of employment of the county school supervisor
36 or county board of education designee whose employment was continued pursuant

1 to the conditions set forth in section (a), or upon the abolishment of the
2 office of the county school supervisor or county board of education designee
3 in their respective counties, the county board of education shall not replace
4 the county school supervisor or county board of education designee and the
5 county board of education shall be abolished.

6
7 6-12-309. Duties of county school supervisor or county board of
8 education designee.

9 The county school supervisor or county board of education designee shall
10 devote his entire time to the position of county school supervisor or county
11 board of education designee, which position includes the faithful performance
12 of the following duties and other duties as may be properly delegated to the
13 supervisor or designee:

14 (1) The county school supervisor or county board of education
15 designee shall be the executive officer of the county board of education and
16 shall, if possible, attend all meetings of the board but shall not have the
17 right to vote.

18 (2) As ex officio secretary of the county board of education, the
19 county school supervisor or county board of education designee shall:

20 (A) Keep a record of all meetings and of all business
21 transactions of the county board and shall, together with the chairman of the
22 board, sign the record at the close of each business meeting;

23 (B) Keep a permanent copy of the record of the board
24 meetings and prepare a copy to be filed with the county clerk and kept by the
25 county clerk in the same manner in which the county school supervisor or
26 county board of education designee is required to keep the permanent records
27 of the county. The clerk shall be entitled to no fee for the filing or
28 keeping of the record; and

29 (C) Keep a permanent file of all necessary papers and legal
30 transactions of the county board of education and shall, when called upon to
31 do so, furnish anyone entitled thereto a certified copy of the file.

32 (3) The county school supervisor or county board of education
33 designee shall record the certificates of teachers, as required by law.

34 (4) The county school supervisor or county board of education
35 designee shall be a representative of the State Board of Education and shall
36 perform duties as may be required by the State Board of Education.

1 (5) The county school supervisor or county board of education
2 designee shall keep a record of the contracts made with teachers.

3 (6) The county school supervisor or county board of education
4 designee shall cooperate with the Department of Education in carrying out the
5 budgetary regulations and procedures *pertaining to county boards of education*
6 as are now, or may hereafter be, prescribed by the State Board of Education or
7 by law.

8 (7) The county school supervisor or county board of education
9 designee may keep in the county school supervisor's or county board of
10 education designee's office and file with the Board of Trustees of the Teacher
11 Retirement System and the State Board of Education not later than October 15
12 of each year a list of all teachers employed in the county for the ensuing
13 year, setting forth the type of certificate held by each teacher, the
14 teacher's monthly contract salary, whether the teacher is a member of the
15 Teacher Retirement System, and other information as the state board may deem
16 necessary.

17
18 6-12-310. Failure to perform duties.

19 The failure of the county school supervisor or county board of education
20 designee to perform any duties provided by law, or any which may be imposed
21 upon the county school supervisor or county board of education designee by the
22 county board of education, shall be sufficient cause for the county school
23 supervisor's or county board of education designee's discharge and the
24 termination of the county school supervisor's or county board of education
25 designee's contract.

26
27 6-12-311. Salary.

28 (a) Each county board of education is authorized to determine, at its
29 discretion, the salary of the county school supervisor or county board of
30 education designee and allowances for travel, clerical, office, and other
31 expenses.

32 (b) For this purpose, the chairperson shall call a meeting in June each
33 year for the consideration of these matters.

34 (c) All allowances for office expense, travel, and clerical help shall
35 be based upon detailed budgets submitted by the county school supervisor or
36 county board of education designee and approved by the county board of

1 education.

2 (d) The county school supervisor or county board of education designee,
3 with the approval of the county board, is authorized to select clerical and
4 other assistants as are necessary.

5 (e) The allowances to the county school supervisor or county board of
6 education designee, and members of the county board of education for travel
7 expense, meals, and hotels shall not be in excess of the allowance for state
8 employees.

9 (f) All funds provided herein shall be set aside from the unapportioned
10 county general school fund to a special fund by the county treasurer.
11 Payments from this special fund shall be made only upon presentation of
12 invoice statements, itemized expense accounts, and payrolls upon vouchers
13 signed by the county school supervisor or county board of education designee,
14 and the chairman of the county board, and when vouchers properly executed are
15 presented to the county clerk and approved by the county school supervisor or
16 county board of education designee and the chairman of the county board of
17 education.

18

19 6-12-312. Spouse as employee.

20 No spouse of any member of the county board of education or of the
21 county school supervisor or county board of education designee, nor any person
22 related within the fourth degree of consanguinity or affinity to any member of
23 the county board of education or to the county school supervisor or county
24 board of education designee, shall be eligible for employment as clerical help
25 in the office of the county school supervisor or county board of education
26 designee.

27

28 6-12-313. Candidacy for public office.

29 The county school supervisor or county board of education designee shall
30 not be a candidate for public office during the term of the county school
31 supervisor's or county board of education designee's contract and shall not be
32 granted leave of absence for that purpose.

33

34 6-12-314. Office at county seat.

35 The quorum court shall supply the county school supervisor or county
36 board of education designee with a suitably equipped office at the county

1 seat.

2

3 SECTION 4. Any civil action brought against any abolished county board
4 of education, or its members, school supervisor, designee or employee in their
5 official capacity, must be commenced within one (1) year after the abolishment
6 of the county board of education or one (1) year after the cause of action
7 accrues, whichever occurs first. A cause of action accrues on the date of
8 occurrence of the violation, regardless of the aggrieved party's lack of
9 knowledge of the violation.

10

11 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General
12 Assembly that Act 1078 of 1999 created confusion regarding the powers and
13 duties of county boards of education; and the confusion has made it difficult
14 for existing county boards of education to provide essential services to
15 public schools in the state. Therefore, an emergency is declared to exist and
16 this act being immediately necessary for the preservation of the public peace,
17 health and safety shall become effective on the date of its approval by the
18 Governor. If the bill is neither approved nor vetoed by the Governor, it
19 shall become effective on the expiration of the period of time during which
20 the Governor may veto the bill. If the bill is vetoed by the Governor and the
21 veto is overridden, it shall become effective on the date the last house
22 overrides the veto.

23

/s/ Mahony

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APPROVED: 3/22/2001

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