

Stricken language would be deleted from and underlined language would be added to present law.
Act 60 of the 2nd Extraordinary Session

1 State of Arkansas

As Engrossed: S1/20/04

Call Item 4

2 84th General Assembly

A Bill

3 Second Extraordinary Session, 2003

HOUSE BILL 1109

4

5 By: Representatives Bond, Ledbetter, Walters, Thyer, Bradford, *Clemons, Sullivan*

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For An Act To Be Entitled

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AN ACT TO ADMINISTRATIVELY REORGANIZE THE

10

EXISTING PUBLIC EDUCATION SYSTEM; AND FOR OTHER

11

PURPOSES.

12

13

Subtitle

14

THE PUBLIC EDUCATION REORGANIZATION ACT.

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WHEREAS, The Arkansas Supreme Court, in the decision of Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the now extant system of funding public education to be unconstitutional because it is both inequitable and inadequate; and

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22

WHEREAS, The Arkansas Supreme Court set forth the test for a constitutional system to be one in which the state has an "absolute duty" to provide an "equal opportunity to an adequate education",

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26

NOW THEREFORE,

27

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

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SECTION 1. Legislative purpose.

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The General Assembly declares that this act is necessary to ensure the delivery of an equal opportunity for an adequate education to the people of Arkansas in an efficient and effective manner.

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SECTION 2. Arkansas Code § 6-13-1405(a)(5), concerning procedures for consolidation, is amended to read as follows:

36

(5)(A)(i) The state board shall afford the local school



1 districts in a consolidation thirty (30) days to establish an interim local
2 board to govern the resulting district pursuant to § 6-14-1406 until the next
3 school election.

4 (ii) If the consolidation is under § 6-13-1602, the
5 resulting school districts shall establish an interim board by May 31
6 immediately preceding the effective date of consolidation.

7 (B) If the local school districts fail to establish an
8 interim board, the state board shall appoint an interim local board to serve
9 until the next elected board assumes office. ~~The number of interim board~~
10 ~~positions shall be set as allowed by law.~~

11 (C)(i) The interim board shall be made up of board members
12 from the boards of directors of the affected school districts.

13 (ii) The proportion of board members from each of
14 the affected school districts shall be equal to the proportion of the student
15 population in the resulting school district that came from each affected
16 school district.

17
18 SECTION 3. Arkansas Code Title 6, Chapter 13, is amended to add an
19 additional subchapter to read as follows:

20 6-13-1601. Definitions.

21 As used in this subchapter:

22 (1) "Administrative annexation" means the joining of an affected
23 school district or a part of the school district with a receiving district;

24 (2) "Administrative consolidation" means the joining of two (2)
25 or more school districts to create a new single school district with one (1)
26 administrative unit and one (1) board of directors that is not required to
27 close school facilities.

28 (3) "Affected district" means a school district that loses
29 territory or students as a result of administrative annexation or
30 consolidation;

31 (4)(A) "Average daily membership" means the total number of days
32 attended plus the total number of days absent by students in grades
33 kindergarten through twelve (K-12) during the first three (3) quarters of
34 each school year divided by the number of school days actually taught in the
35 district during that period of time rounded up to the nearest hundredth.

36 (B) Students who may be counted for average daily

1 membership are:

2 (i) Students who reside within the boundaries of the
3 school district and who are enrolled in a public school operated by the
4 district or a private school for special education students, with their
5 attendance resulting from a written tuition agreement approved by the
6 Department of Education;

7 (ii) Legally transferred students living outside the
8 district but attending a public school in the district; and

9 (iii) Students who reside within the boundaries of
10 the school district and who are enrolled in the Arkansas National Guard Youth
11 Challenge Program, so long as the students are participants in the program;

12 (5) "Consolidated average daily membership" means the sum of the
13 average daily membership for each school district included in a consolidation
14 if the average daily membership for the school district was five hundred
15 (500) or fewer for the school year immediately preceding the school year for
16 which the consolidation becomes effective;

17 (6) "Consolidated national school lunch student total" means the
18 sum of national school lunch students in each school district included in a
19 consolidation if the average daily membership for the school district was
20 five hundred (500) or fewer for the school year immediately preceding the
21 school year for which the consolidation becomes effective;

22 (7) "National school lunch students" means those students from
23 low socio-economic backgrounds as indicated by the eligibility for free or
24 reduced-priced meals under the National School Lunch Act as calculated on
25 October 1 of each year and submitted to the Department of Education.

26 (8) "Receiving district" means a school district or districts
27 that receive territory or students, or both, from an affected district as a
28 result of administrative annexation; and

29 (9) "Resulting district" means the new school district created
30 from an affected district or districts as a result of administrative
31 consolidation;

32
33 6-13-1602. Administrative consolidation list.

34 (a) By February 1, 2004, and each February 1 thereafter, the
35 Department of Education shall publish a consolidation list that includes all
36 school districts with fewer than three hundred fifty (350) students according

1 to the district's average daily membership in each of the two (2) school
2 years immediately preceding the current school year.

3 (b) If the effective date of this act is after January 12, 2004, then
4 the department shall publish the initial consolidation list for 2004 within
5 thirty (30) calendar days after the effective date of this act.

6
7 6-13-1603. Administrative reorganization.

8 (a)(1) Any school district included in the Department of Education's
9 consolidation list pursuant to § 6-13-1602 may voluntarily agree to
10 administratively consolidate with or be annexed to another district or
11 districts in accordance with the requirements and limitations of this
12 section.

13 (2)(A) Any school district on the consolidation list choosing to
14 voluntarily administratively consolidate or annex shall submit a petition for
15 approval to the State Board of Education by April 1 immediately following
16 publication of the list and shall set forth the terms of the administrative
17 consolidation or annexation agreement in the plan.

18 (B) If the petition is approved by the state board, the
19 administrative consolidation or annexation shall be completed by June 1, to
20 be effective the July 1 immediately following the publication of the list
21 required under § 6-13-1602.

22 (3) Any school district on the consolidation list that does not
23 submit a petition pursuant to subdivision (a)(2)(A) of this section or that
24 does not receive approval by the state board for a voluntary consolidation or
25 annexation petition shall be administratively consolidated by the state board
26 with or into one (1) or more school districts by June 1, to be effective the
27 July 1 immediately following the publication of the list required under § 6-
28 13-1602.

29 (4) The state board shall promptly consider petitions or move on
30 its own motion to administratively consolidate a school district on the
31 consolidation list in order to enable the affected school districts to
32 reasonably accomplish any resulting administrative consolidation or
33 annexation by July 1 immediately following the publication of the list
34 required under § 6-13-1602.

35 (5) The state board shall not deny the petition for voluntary
36 administrative consolidation or annexation of any two (2) or more school

1 districts unless:

2 (A) The provisions contained in the articles of
3 administrative consolidation or annexation would violate state or federal
4 law; or

5 (B) The voluntary consolidation or annexation would not
6 contribute to the betterment of the education of students in the districts.

7 (b) Any school district required to be administratively consolidated
8 under this subchapter shall be administratively consolidated in such a manner
9 as to create a resulting district with an average daily membership meeting or
10 exceeding three hundred fifty (350).

11 (c) All administrative consolidations or annexations under this
12 section shall be accomplished so as not to create a school district that
13 hampers, delays, or in any manner negatively affects the desegregation of
14 another school district in this state.

15 (d) In the administratively consolidated or annexed school districts
16 created under this subchapter, the ad valorem tax rate shall be determined as
17 set forth under § 6-13-1409.

18 (e) Nothing in this section shall be construed to require the closing
19 of any school or school facility.

20 (f) No school facility in a school district included in the
21 consolidation list required by § 6-13-1602 shall be closed by the state board
22 or a local school board until after completion of an assessment of public
23 school facilities by the Joint Committee on Educational Facilities as
24 required by Act 1181 of 2003, but in no event shall any be closed prior to
25 June 1, 2005.

26 (g) No administratively consolidated or annexed school district shall
27 have more than one (1) superintendent.

28 (h) No school district administratively consolidated with a school
29 district designated by the state board as being in academic or fiscal
30 distress shall be subject to academic or fiscal distress sanctions for a
31 period of three (3) years from the effective date of consolidation unless:

32 (1) The school district fails to meet minimum teacher salary
33 requirements; or

34 (2) The school district fails to comply with the Standards for
35 Accreditation of Arkansas Public Schools issued by the Department of
36 Education.

1 (i) Noncontiguous school districts may voluntarily consolidate if:

2 (1)(A) The facilities and physical plant of each school district
3 are within the same county; and

4 (B) The state board approves the administrative
5 consolidation; or

6 (2)(A) The facilities and physical plant of each school district
7 are not within the same county; and

8 (B) The state board approves the administrative
9 consolidation or annexation and finds that:

10 (i) The consolidation or annexation will result in
11 the overall improvement in the educational benefit to students in all of the
12 school districts involved; or

13 (ii) The consolidation or annexation will provide a
14 significant advantage in transportation costs or service to all of the school
15 districts involved.

16 (j) Contiguous districts may administratively consolidate even if they
17 are not in the same county.

18 (k) The state board shall promulgate rules to facilitate the
19 administration of this subchapter.

20 (l) The provisions of § 6-13-1406 shall govern the board of directors
21 of each resulting or receiving school district created under this subchapter.

22
23 6-13-1604. Administrative consolidation assistance funds.

24 (a) The state shall pay administrative consolidation assistance funds
25 to each school district that:

26 (1) Is administratively consolidated or annexed by the State
27 Board of Education under § 6-13-1603 by July 1, 2005; or

28 (2)(A) Has an average daily membership of at least three hundred
29 fifty (350) and no more than five hundred (500) for each of the two (2)
30 school years preceding the school year in which the administrative
31 consolidation or annexation petition is filed; and

32 (B) Voluntarily petitions and receives approval from the
33 state board to administratively consolidate or annex prior to July 1, 2004.

34 (b) Administrative consolidation assistance funds shall be paid in an
35 amount equal to:

36 (1) Eight hundred dollars (\$800) multiplied times the

1 consolidated average daily membership; plus

2 (2) Seven hundred dollars (\$700) multiplied times the
3 consolidated national school lunch student total.

4 (c)(1) Administrative consolidation assistance funds may be used by
5 the school districts for any purpose.

6 (2) However, the state board by rule may require funds to be
7 expended on the construction or improvement of school facilities.

8 (d) The funds shall be paid to the resulting administratively
9 consolidated or annexed school district during the first year of the
10 consolidated or annexed district's existence.

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12 6-13-1605. Charter schools.

13 The provisions of § 6-13-1601 - 1604 shall not apply to charter schools
14 in existence on the effective date of this act or to schools achieving
15 charter status by June 1, 2005.

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17 SECTION 4. Immediately upon the effective date of this act, the Chief
18 Fiscal Officer of the State shall transfer on his books and those of the
19 State Treasurer and the Auditor of the State the sum of thirty-seven million
20 ninety-seven thousand five hundred sixty dollars (\$37,097,560) from funds
21 received from the Jobs and Growth Tax Relief Reconciliation Act of 2003,
22 Public Law 108-27 to the Department of Education Public School Fund Account
23 there to be used for the consolidation incentive provided in § 6-13-1604.

24
25 SECTION 5. Arkansas Code Title 6, Chapter 20, Subchapter 6 is amended
26 to add an additional section t read as follows:

27 6-20-602. Isolated schools.

28 (a) "Isolated school" means a school within a school district that:
29 (1) Prior to administrative consolidation or annexation under
30 this act qualified as an isolated school district under § 6-20-601; and

31 (2) Is subject to administrative consolidation or annexation
32 under this act.

33 (b) Any isolated school within a resulting or receiving district shall
34 remain open.

35 (c) Funding for isolated school districts shall be expended by the
36 resulting or receiving district only on the operation, maintenance, and other

1 expenses of the isolated schools within the resulting or receiving district.

2
3 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
4 General Assembly of the State of Arkansas that the Arkansas Supreme Court in
5 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the
6 now existing system of education to be unconstitutional because it is both
7 inequitable and inadequate; and the Arkansas Supreme Court set forth the test
8 for a constitutional system to be one in which the State has an “absolute
9 duty” to provide an “equal opportunity to an adequate education”; and the
10 Arkansas Supreme Court instructed the General Assembly to define and provide
11 what is necessary to provide an adequate and equitable education for the
12 children of Arkansas. Therefore, an emergency is declared to exist and this
13 act being immediately necessary for the preservation of the public peace,
14 health, and safety shall become effective on:

15 (1) The date of its approval by the Governor;

16 (2) If the bill is neither approved nor vetoed by the Governor,
17 the expiration of the period of time during which the Governor may veto the
18 bill; or

19 (3) If the bill is vetoed by the Governor and the veto is
20 overridden, the date the last house overrides the veto.

21
22 /s/ Bond

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25 **APPROVED: BECAME LAW ON 1/29/2004, WITHOUT SIGNATURE**