

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.

Act 1327 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

As Engrossed: S3/8/05

A Bill

SENATE BILL 590

4
5 By: Senators Broadway, Bisbee
6 By: Representatives Mahony, Elliott

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9 **For An Act To Be Entitled**

10 AN ACT TO REVISE THE DUTIES AND RESPONSIBILITIES
11 OF THE DIVISION OF PUBLIC SCHOOL ACADEMIC
12 FACILITIES AND TRANSPORTATION; TO CREATE THE
13 COMMISSION ON PUBLIC SCHOOL ACADEMIC FACILITIES
14 AND TRANSPORTATION; AND FOR OTHER PURPOSES.

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17 **Subtitle**

18 AN ACT TO REVISE THE DUTIES AND
19 RESPONSIBILITIES OF THE DIVISION OF
20 PUBLIC SCHOOL ACADEMIC FACILITIES AND
21 TRANSPORTATION AND TO CREATE THE
22 COMMISSION ON PUBLIC SCHOOL ACADEMIC
23 FACILITIES AND TRANSPORTATION.

24
25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27
28 SECTION 1. Arkansas Code § 6-21-112 is amended to read as follows:

29 6-21-112. ~~Division of Public School Academic Facilities~~ Division of
30 Public School Academic Facilities and Transportation.

31 (a) In order to ensure that substantially equal access to adequate
32 educational facilities and educational equipment is provided for all public
33 school students in Arkansas, the General Assembly finds that a division of
34 public school academic facilities and transportation should be established
35 under the direct supervision of the ~~State Board of Education~~ Commission on



1 Public School Academic Facilities and Transportation.

2 (b) There is created the Division of Public School Academic Facilities
3 and Transportation, which shall ~~begin operation within one hundred twenty~~
4 ~~(120) calendar days following June 3, 2004~~ operate under the supervision of
5 the Commission on Public School Academic Facilities and Transportation.

6 ~~(c) The division shall be under the supervision of the state board.~~

7 ~~(d)~~(c)(1) The ~~state board~~ commission shall select an individual to
8 serve as the Director of the Division of Public School Academic Facilities,
9 and Transportation and the Director of the Division of Public School Academic
10 Facilities and Transportation shall serve at the pleasure of the ~~state board~~
11 commission.

12 ~~(2) The Director of the Division of Public School Academic~~
13 ~~Facilities shall be an architect who is licensed by the State of Arkansas.~~

14 (2) The person selected as the director shall:

15 (A) Be a person of good moral character and qualified
16 technically and by experience to direct the work of the division;

17 (B) Have significant knowledge and experience in
18 construction; and

19 (C) Have ten (10) years of experience in an
20 administrative, supervisory, or management position.

21 (3) No person who is related within the fourth degree of
22 consanguinity or affinity to any member of the ~~state board~~ commission shall
23 be eligible to serve as the Director of the Division of Public School
24 Academic Facilities and Transportation.

25 ~~(e)~~(d) The Director of the Division of Public School Academic
26 Facilities and Transportation, with guidance and approval from the ~~state~~
27 ~~board~~ commission, shall be responsible for hiring all employees of the
28 division.

29 ~~(f)~~(e)(1) The Executive Chief Information Officer shall assign one (1)
30 individual from the staff of the Office of Information Technology to serve as
31 a technology liaison to the division.

32 ~~(g)~~(2) The Director of the Arkansas Building Authority shall
33 assign one (1) individual from the staff of the Arkansas Building Authority
34 to serve as a physical plant liaison to the ~~Director of the Public School~~
35 ~~Academic Facilities~~ division.

36 ~~(h)~~(f) The division shall:

1 (1) ~~Provide information or assistance to the Joint Committee on~~
2 ~~Educational Facilities created by Act 1181 of 2003 Academic Facilities~~
3 ~~Oversight Committee as requested by the joint committee;~~

4 (2) Use any recommendation or assessments of the ~~joint oversight~~
5 committee or the General Assembly as a basis for establishing the policies
6 and procedures of the division; ~~and~~

7 ~~(3) Provide assistance, as requested, to the joint committee in~~
8 ~~conducting an assessment of all school facilities in the state and continue~~
9 ~~to update and maintain current assessments of all school facilities after the~~
10 ~~expiration of the joint committee on December 31, 2004~~

11 (3) Develop and implement the Arkansas Public School Academic
12 Facilities Program as established in the act derived from Senate Bill 593 of
13 2005;

14 (4) Administer the various programs of state financial
15 participation in support of local academic facilities;

16 (5) Develop and implement an ongoing uniform process for
17 collecting, inventorying, and updating information on the state of condition
18 of all public school academic facilities in the state;

19 (6) Develop a facility cost index that provides a methodology
20 for comparing the cost of repairing the condition of a public school academic
21 facility to the cost of replacing the public school academic facility with a
22 facility containing the same amount of square footage;

23 (7) Conduct unannounced random on-site inspections of public
24 school academic facilities;

25 (8) Develop minimum standards for accessibility to public school
26 academic facilities and programs for individuals with disabilities;

27 (9) Develop guidelines for competitive bidding, competitive
28 negotiation, and other methods of procurement for public school academic
29 facilities projects;

30 (10) Develop incentive programs to reward school districts for
31 innovative, effective, and efficient use of local and state resources with
32 regard to public school academic facilities;

33 (11) Administer the school transportation program in the various
34 school districts of Arkansas, including, without limitation, the training of
35 school bus drivers and inspection of buses or other vehicles used in
36 transporting public school students;

1 (12) Keep records showing a description of each school district
2 in the state, a map showing the school districts with current and accurate
3 boundaries, the location of the academic facilities, and the electoral zones,
4 if any, into which each school district has been divided;

5 (13) Report by October 1 of each year to the Governor, the House
6 Committee on Education, the Senate Committee on Education, and the Academic
7 Facilities Oversight Committee on the state of condition of education
8 facilities statewide using the following building and design systems:

9 (A)(i) Site land and all improvements to the site, such as
10 grading, drainage, drives, parking areas, walks, landscaping, and
11 playgrounds.

12 (ii) Site improvements shall not include permanent
13 or temporary buildings;

14 (B) Roofing;

15 (C) Exterior;

16 (D) Structure;

17 (E) Interior;

18 (F) Heating, ventilation, and air conditioning;

19 (G) Plumbing and water supply;

20 (H) Electrical;

21 (I) Technology;

22 (J) Fire and safety;

23 (K) Specialty items, including equipment and furnishings;

24 and

25 (L) Space utilization;

26 (14) Report by October 1 of each even-numbered year to the
27 Governor, the House Committee on Education, the Senate Committee on
28 Education, and the Academic Facilities Oversight Committee on the state
29 academic facilities master plan; and

30 (15) Maintain a public access website dedicated to public school
31 academic facilities.

32 (g) The division may:

33 (1) Contract with, retain the services of, or designate, and
34 fix the compensation of consultants, advisers, architects, engineers, and
35 other independent contractors as may be necessary or desirable to carry out
36 the Arkansas Public School Academic Facilities Program or any related program

1 over which the division has authority;

2 (2)(A) Accept all donations, grants of money, equipment,
3 supplies, materials, and services conditional or otherwise from private
4 sources, from municipal and county governments, from the state, and from the
5 federal government.

6 (B) The division may use any of its resources to
7 further the division's purposes and functions; and

8 (3) Make and enter into all contracts, commitments, and
9 agreements and execute all instruments necessary or incidental to the
10 performance of its duties and powers under this section, the Arkansas Public
11 School Academic Facilities Program, or any other related program over which
12 the division has authority.

13 (h) The Department of Education shall coordinate and share certain
14 administrative, custodial, legal, internal finance, and other necessary
15 personnel and responsibilities to effectuate the daily operations of the
16 division and the department.

17 ~~(i)(1) The Director of the Division of Public School Academic~~
18 ~~Facilities shall create and implement a standardized reporting format and~~
19 ~~select the method to be utilized by school districts in the preparation and~~
20 ~~submission of the list to the division.~~

21 ~~(2) The data gathered from the reports generated by the school~~
22 ~~districts shall be presented to the state board for compilation into an~~
23 ~~annual report to the Governor, the House Interim Committee on Education, and~~
24 ~~the Senate Interim Committee on Education on the facility needs in the state.~~

25 ~~(3) The division shall conduct any reviews, site visits, and~~
26 ~~other research during the year to assist in preparation of the annual report.~~

27 ~~(j)(1) The Director of the Division of Public School Academic~~
28 ~~Facilities shall provide to the Governor, the House Interim Committee on~~
29 ~~Education, and the Senate Interim Committee on Education reports on the~~
30 ~~status of public school academic facilities, including the facility and~~
31 ~~technology needs and priorities for each category.~~

32 ~~(2) A preliminary report shall be provided by January 1 each~~
33 ~~year, and a follow up report that includes information regarding on-site~~
34 ~~visits shall be filed by June 1 each year.~~

35 ~~(k)(1)(A) No later than September 30 of each even-numbered year of the~~
36 ~~biennium, the division shall present to the state board the list of public~~

1 ~~school facility repairs, improvements, and construction along with technology~~
 2 ~~improvements that the division recommends for the next biennium.~~

3 ~~(B) Copies of the list shall be provided to the Governor,~~
 4 ~~the House Interim Committee on Education, and the Senate Interim Committee on~~
 5 ~~Education.~~

6 ~~(2) The state board shall prioritize funding for public school~~
 7 ~~facility repairs, improvements, and construction along with technology~~
 8 ~~improvements based on the recommendations of the division.~~

9 ~~(1) The state board and the division shall develop, by rule and~~
 10 ~~regulation, the process for developing the list of public school facility~~
 11 ~~repairs, improvements, and construction, along with technology improvements~~
 12 ~~necessary under this section.~~

13
 14 SECTION 2. Arkansas Code Title 6, Chapter 21, Subchapter 1 is amended
 15 to add an additional section to read as follows:

16 6-21-113. Commission - Created.

17 (a) There is created the Commission for Arkansas Public School
 18 Academic Facilities and Transportation. The commission shall consist of the
 19 following:

20 (1) The Director of the Department of Finance and
 21 Administration;

22 (2) The Director of the Department of Education; and

23 (3) The President of the Arkansas Development Finance Authority.

24 (b)(1) The members of the commission shall meet and organize
 25 immediately after the effective date of this subchapter. The Director of the
 26 Department of Education shall be the chair of the commission.

27 (2)(A) The commission shall meet at least quarterly and upon the
 28 call of the chair.

29 (B) The secretary of the commission, who shall be an
 30 employee of the Division of Public School Academic Facilities and
 31 Transportation assigned to the commission by the chair of the commission,
 32 shall give members advance notice of the agenda of each meeting.

33 (3)(A) Two (2) members of the commission shall constitute a
 34 quorum for the purpose of transacting business.

35 (B) A quorum is required for any action of the commission.

36 (4) Members of the commission shall serve without compensation,

1 but may receive expense reimbursement in accordance with § 25-16-902.

2 (c) Staff support shall be provided by appropriate personnel of the
3 Department of Finance and Administration, the Department of Education, the
4 Arkansas Development Finance Authority, and the Division of Public School
5 Academic Facilities and Transportation.

6 (d) The commission shall oversee the operations of the Division of
7 Public School Academic Facilities and Transportation.

8 (e) The commission may:

9 (1) Perform any act and provide for the performance of any
10 function necessary or desirable to carry out the purposes of the Arkansas
11 Public School Academic Facilities Program and any other related program;

12 (2)(A) Adopt, amend, and rescind rules as necessary or desirable
13 for the administration of the Arkansas Public School Academic Facilities
14 Program and any other related program.

15 (B) No later than October 1, 2005, the commission shall
16 submit to the Legislative Council for review proposed rules necessary to
17 administer the Arkansas Public School Academic Facilities Program.

18 (C) The effective date of rules developed by the
19 commission to administer the Arkansas Public School Academic Facilities
20 Program shall be no later than December 1, 2005; and

21 (3) Contract with, retain the services of, or designate, and fix
22 the compensation of consultants, advisers, architects, engineers, and other
23 independent contractors as may be necessary or desirable to carry out the
24 Arkansas Public School Academic Facilities Program or any related program.

25 (f) The commission shall report annually on its activities to the
26 President Pro Tempore of the Senate, the Speaker of the House of
27 Representatives, the Governor, and the House and Senate Committees on
28 Education, the State Board of Education, and the Academic Facilities
29 Oversight Committee.

30 (g)(1) Effective July 1, 2007, the commission shall expire and all
31 powers, authorities, duties, and responsibilities of the commission with
32 regard to oversight of the Division of Public School Academic Facilities and
33 Transportation shall transfer to the State Board of Education.

34 (2) After the transfer in subsection (g)(1) of this section
35 occurs, the Arkansas Code Revision Commission shall correct references to the
36 "Commission for Arkansas Public School Academic Facilities and

1 Transportation” or “commission” to “State Board of Education” or “state
2 board” throughout the Arkansas Code Annotated where the intended reference is
3 manifest.

4
5 SECTION 3. Arkansas Code § 6-19-107 is amended to read as follows:

6 6-19-107. Bus drivers - Application for employment - Driving records.

7 (a) An applicant for employment as a school bus driver shall submit
8 an application prescribed by the ~~Department of Education~~ Division of Public
9 School Academic Facilities and Transportation to the school district in which
10 he or she seeks employment. The application shall include a statement signed
11 by the applicant which authorizes the release of his or her traffic violation
12 report from the Office of Driver Services of the Department of Finance and
13 Administration to provide the school district with the applicant’s driving
14 record.

15 (b) The Office of Driver Services shall report the applicant’s driving
16 record, without charge, to the school district requesting such record.

17 (c) The applicant’s driving record shall be evaluated according to
18 guidelines established by the ~~Department of Education~~ Division of Public
19 School Academic Facilities and Transportation prior to permanent employment.
20 The school district may hire an applicant as a bus driver on a temporary
21 basis until official verification of the driving record is received and
22 evaluated. The school district shall review and maintain a file of semiannual
23 reports on the driving records of school bus drivers.

24
25 SECTION 4. Arkansas Code § 6-19-108(a) is amended to read as follows:

26 (a) An applicant seeking employment as a driver or operator of a
27 school bus, either privately or publicly owned, is required to take and pass
28 a series of tests as prescribed by the Department of Arkansas State Police
29 and the ~~Department of Education~~ Division of Public School Academic Facilities
30 and Transportation to determine the physical fitness and driving ability to
31 serve as a school bus driver. The tests shall include a physical examination
32 given by a licensed physician or registered nurse for school bus drivers, an
33 eye test, a written or oral test on rules and regulations of driving, a road
34 test given under the supervision of the Department of Arkansas State Police,
35 and such other requirements as may be prescribed by rules and regulations
36 issued jointly by the Department of Arkansas State Police and the ~~Department~~

1 ~~of Education~~ Division of Public School Academic Facilities and Transportation
 2 for qualifications and fitness of school bus drivers. In addition, the
 3 applicant shall participate in and pass a standard bus driver training and
 4 preservice behind-the-wheel training program as prescribed by the ~~Department~~
 5 ~~of Education~~ Division of Public School Academic Facilities and
 6 Transportation.

7
 8 SECTION 5. Arkansas Code § 6-19-108(d) is amended to read as follows:

9 (d) Each school bus driver who seeks a renewal of his or her bus
 10 driver certificate shall provide proof that he or she has satisfactorily
 11 passed a physical examination given by a licensed physician and that he or
 12 she has satisfactorily completed an in-service workshop for school bus
 13 drivers as prescribed by the ~~Department of Education~~ Division of Public
 14 School Academic Facilities and Transportation.

15
 16 SECTION 6. Arkansas Code § 6-19-116 is amended to read as follows:

17 6-19-116. Bus mirrors.

18 (a) Every school bus used for the transportation of pupils to or from
 19 school shall be equipped with one (1) or more mirrors of sufficient size so
 20 positioned on the bus as to permit the driver to see clearly the area
 21 immediately in front of the bus.

22 (b) The ~~Department of Education~~ Division of Public School Academic
 23 Facilities and Transportation is authorized to adopt appropriate rules and
 24 regulations as it deems necessary to carry out the intent and purposes of
 25 this section.

26
 27 SECTION 7. Arkansas Code § 6-19-117(e) and (f), pertaining to school
 28 bus safety equipment, are amended to read as follows:

29 (e) By no later than July 1 of each year, the superintendent of each
 30 local school district shall certify to the ~~Department of Education~~ Division
 31 of Public School Academic Facilities and Transportation that the district is
 32 in compliance with the provisions of this section.

33 (f) The Director of the ~~Department of Education~~ Division of Public
 34 School Academic Facilities and Transportation shall cause to be publicized
 35 the first week of each school year as School Bus Safety Week.

36

1 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General
2 Assembly of the State of Arkansas that the Arkansas Supreme Court has
3 determined that current public school academic facilities in Arkansas are
4 inadequate and inequitable; that the General Assembly established the Joint
5 Committee on Educational Facilities to inventory the current condition of
6 public school academic facilities and recommend methods for bringing those
7 facilities into conformity with the court's constitutional expectations; that
8 the Division of Public School Academic Facilities and Transportation is
9 charged with the administration of a comprehensive state program for
10 overseeing the provision of constitutionally appropriate public school
11 academic facilities across the state; and that the division must be given
12 authority to immediately begin work on developing programs to provide
13 constitutionally appropriate public school academic facilities for the
14 benefit of public school students in the State of Arkansas. Therefore, an
15 emergency is declared to exist and this act being immediately necessary for
16 the preservation of the public peace, health, and safety shall become
17 effective on:

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

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

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

24
25 /s/ Broadway
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28 **APPROVED: 3/29/2005**
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