

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 274 of the Regular Session

As Engrossed: H2/4/05 H2/11/05

A Bill

1 State of Arkansas

2 85th General Assembly

3 Regular Session, 2005

HOUSE BILL 1266

4
5 By: Representatives Abernathy, Cooper, Everett, Fite, J. Johnson, Mack, Overbey, Pyle, Saunders, Wyatt

6 By: Senators Miller, Broadway, Laverty

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8
9 **For An Act To Be Entitled**

10 *AN ACT TO PROTECT THE CONTINUITY OF SCHOOL BOARDS*
11 *BY AMENDING THE PROCEDURE FOR ELECTION OF SCHOOL*
12 *BOARDS FOLLOWING ANNEXATION OR CONSOLIDATION; TO*
13 *ALLOW CERTAIN DISTRICTS TO RETURN TO AT-LARGE*
14 *ELECTIONS; AND FOR OTHER PURPOSES.*

15
16 **Subtitle**

17 *AN ACT TO PROTECT THE CONTINUITY OF*
18 *SCHOOL BOARDS BY AMENDING THE PROCEDURE*
19 *FOR ELECTION OF SCHOOL BOARDS FOLLOWING*
20 *ANNEXATION OR CONSOLIDATION.*

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

25
26 SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 14 is amended
27 to add an additional section to read as follows:

28 6-13-1412. Board of directors after annexation – Term – Election.

29 (a)(1) Notwithstanding any other provisions of law, school districts
30 that annex after January 1, 2005, under Act 60 of the Second Extraordinary
31 Session of 2003 and opt to follow the procedures in this section or school
32 districts that voluntarily annex and opt to follow the procedures in this
33 section shall form a new board of directors made up of the board of directors
34 of the receiving district plus at least one (1) member of the board of
35 directors of each affected district as provided under § 6-13-



1 1406(a)(1)(B)(ii).

2 (2) The board of directors of each affected district shall
3 select by majority vote at least one (1) member to serve on the new board.

4 (3) In the case of a tie vote on the board of directors of the
5 affected districts, the members shall be selected by drawing lots.

6 (b)(1) School districts that annexed before January 1, 2005, under Act
7 60 of the Second Extraordinary Session of 2003 and which have an interim
8 board of directors which has not stood for election since the creation of the
9 interim board shall have a board made up of the members of the interim board.

10 (2) Within thirty (30) days of the effective date of this
11 section, the members of the board shall determine their terms by lot so that
12 no more than three (3) members' terms expire during any one (1) year with no
13 fewer than one (1) member's term expiring at the regular school election in
14 the year following the effective date of the annexation.

15 (c)(1) In no case shall the interim board or permanent board have:

16 (A) More than seven (7) or fewer than five (5) members; or

17 (B) An even number of members.

18 (2) If the addition of members from the affected district or
19 districts would cause the interim board to be out of compliance with
20 subdivision (c)(1) of this section, or if the board decides to reduce the
21 size of the board, the total number of positions held by the members of the
22 receiving district shall be reduced as necessary by:

23 (A) Voluntary resignation of one (1) or more existing
24 members; or

25 (B) Drawing lots by the directors of the receiving
26 district prior to annexation.

27 (d) In lieu of electing a new board of directors at the next regular
28 school election, the members of the interim board created under subsection
29 (a) of this section shall determine their terms by lot so that no more than
30 three (3) members' terms expire during any one (1) year with no fewer than
31 one (1) member's term expiring at the regular school election in the year
32 following the effective date of the annexation.

33 (e)(1) Unless the school district is allowed to do otherwise pursuant
34 to § 6-13-604, the board of directors of the receiving district after
35 annexation shall be composed of five (5) or seven (7) members as determined
36 by a majority vote of the board of the receiving district, and the

1 determination shall be exempt from the requirements of §§ 6-13-604 and 6-13-
2 606.

3 (2)(A) The board of directors shall be elected from single-
4 member zones if single-member election zones are necessary to comply with the
5 federal Voting Rights Act of 1965, as in existence on January 1, 2005,
6 ensuring the protection of the voting rights of minority populations in
7 school districts, otherwise the election may be at large for the board of
8 director members whose terms are expiring.

9 (B)(1) If the board of directors of a school district is
10 required to be elected from single-member zones, the procedure for the
11 election shall be as necessary to comply with the federal Voting Rights Act
12 of 1965, as in existence on January 1, 2005, and state law.

13 (2) The zoning shall be completed no later than one
14 hundred twenty (120) calendar days prior to the second school election
15 following the effective date of the annexation at which time the full board
16 shall be up for election.

17 (C) No sanctions provided by state statutory law,
18 specifically including, but not limited to, the sanctions under § 6-13-
19 631(h)(2), or State Board of Education rule shall be levied against a school
20 district if the deadline for zoning allowed under subdivision (e)(2)(B) of
21 this section is met.

22 (3)(A)(i) If prior to the annexation either the receiving
23 district or the affected district had been zoned as necessary to comply with
24 the federal Voting Rights Act of 1965, as in existence on January 1, 2005, or
25 state law, the receiving district shall review the make-up and boundaries of
26 the zones and the latest decennial census data of the receiving school
27 district.

28 (ii) After the review required under subdivision
29 (e)(3)(A)(i) of this section, the receiving district shall be rezoned as
30 necessary to comply with federal Voting Rights Act of 1965, as in existence
31 on January 1, 2005, and state law.

32 (B) Any rezoning under subdivision (e)(3)(A)(ii) of this
33 section shall be completed no later than one hundred twenty (120) calendar
34 days prior to the second school election following the effective date of the
35 annexation.

36 (C) No sanctions provided by state statutory law,

1 specifically including, but not limited to, the sanction under § 6-13-
2 631(h)(2), or State Board of Education rule shall be levied against a school
3 district if the deadline for rezoning allowed under subdivision (e)(3)(B) of
4 this section is met.

5 (f) The length of the term of each member of the board of directors
6 after annexation shall be for a time period as determined by the board and
7 allowed by law.

8 (g) Any vacancy on the board shall be filled in the manner provided
9 for by law.

10 (h) The provisions of § 6-13-1405 and § 6-13-1406 with respect to the
11 election of a board of directors following annexation shall not be applicable
12 for districts annexed under Act 60 of the Second Extraordinary Session of
13 2003 and follow the procedures in this section or districts that voluntarily
14 annex and opt to follow the procedures in this section, except the State
15 Board of Education shall allow school districts thirty (30) days to establish
16 an interim local board or as incorporated in this section by reference.

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18 *SECTION 2. Arkansas Code Title 6, Chapter 13, Subchapter 14 is amended*
19 *to add an additional section to read as follows:*

20 6-13-1413. Board of directors after consolidation – Term – Election.

21 (a) Notwithstanding any other provision of law, school districts that
22 consolidate after January 1, 2005, under Act 60 of the Second Extraordinary
23 Session of 2003 and opt to follow the procedures in this section or school
24 districts that voluntarily consolidate and opt to follow the procedures in
25 this section shall form an interim board of directors as provided by § 6-13-
26 1405(a)(5) and § 6-13-1406(b).

27 (b) In lieu of electing a new board of directors at the next regular
28 school election, the members of the interim board created under subsection
29 (a) of this section shall determine their terms by drawing lots so that no
30 more than three (3) members' terms expire during any one (1) year with no
31 fewer than one (1) member's term expiring at the regular school election in
32 the year following the effective date of the consolidation.

33 (c)(1) Unless the school district is allowed to do otherwise pursuant
34 to § 6-13-604, the board of directors of the district after consolidation
35 shall be composed of five (5) or seven (7) members as determined by a
36 majority vote of the board of the resulting district, and the determination

1 shall be exempt from the requirements of §§ 6-13-604 and 6-13-606.

2 (2)(A) The board of directors shall be elected from single-
3 member zones if single-member election zones are necessary to comply with the
4 federal Voting Rights Act of 1965, as in effect on January 1, 2005, to ensure
5 the protection of the voting rights of minority populations in school
6 districts, otherwise the election may be at-large for the board of director
7 members whose terms are expiring.

8 (B)(i) If the board of directors of a school district is
9 to be elected from single-member zones the district shall be zoned as
10 necessary to comply with the federal Voting Rights Act of 1965, as in effect
11 on January 1, 2005, and state law.

12 (ii) The zoning shall be completed no later than one
13 hundred twenty (120) calendar days prior to the second school election
14 following the effective date of the consolidation at which time the full
15 board shall be up for election.

16 (C) No sanctions provided by state statutory law,
17 specifically including, but not limited to, the sanctions under § 6-13-
18 631(h)(2), or State Board of Education rule shall be levied against a school
19 district if the deadline for zoning allowed under subdivision (c)(2)(B) of
20 this section is met.

21 (3)(A)(i) If prior to the consolidation either of the affected
22 districts had been zoned in compliance with the federal Voting Rights Act of
23 1965, as in effect on January 1, 2005, or state law, the resulting district
24 shall review the make up and boundaries of the zones and the latest federal
25 decennial census data of the receiving school district.

26 (ii) After the review required under subdivision
27 (c)(3)(A)(i) of this section, the resulting district shall be rezoned as
28 necessary to comply with the federal Voting Rights Act of 1965, as in effect
29 on January 1, 2005, and state law.

30 (B) Any rezoning under subdivision (c)(3)(A)(ii) of this
31 section shall be completed no later than one hundred twenty (120) calendar
32 days prior to the second school election following the effective date of the
33 consolidation.

34 (C) No sanctions under state statutory law, specifically
35 including, but not limited to, the sanctions under § 6-13-631(h)(2), or State
36 Board of Education rule shall be levied against a school district if the

1 deadline for rezoning allowed under subdivision (c)(3)(B) of this section is
2 met.

3 (d) The length of the term of each member of the board of directors
4 after consolidation shall be for a time period as determined by the board and
5 allowed by law.

6 (e) Any vacancy on the board shall be filled in the manner provided
7 for by law.

8 (f) The provisions of § 6-13-1405 and § 6-13-1406 with respect to the
9 election of a board of directors following consolidation shall not be
10 applicable for districts consolidating under Act 60 of the Second
11 Extraordinary Session of 2003 that follow the procedures in this section or
12 districts that voluntarily consolidate and opt to follow the procedures in
13 this section, except the State Board of Education shall allow school
14 districts thirty (30) days to establish an interim local board and if the
15 affected districts fail to establish an interim board as required the State
16 Board of Education shall appoint an interim local board pursuant to §6-13-
17 1405, or as incorporated in this section by reference.

18 (g)(1) Notwithstanding any other provisions of law, school districts
19 that consolidated before January 1, 2005, under Act 60 of the Second
20 Extraordinary Session of 2003 may by majority vote of the board of directors
21 opt to return to at-large elections if the district:

22 (A) Was required to establish single-member election zones
23 solely because of the requirements of Act 60 of the Second Extraordinary
24 Session of the Eighty-Fourth General Assembly;

25 (B) Is or was not required to establish single-member
26 election zones by any state law other than Act 60 of the Second Extraordinary
27 Session of 2003; and

28 (C) Is or was not required to have single-member election
29 zones to comply with the federal Voting Rights Act of 1965, as in effect on
30 January 1, 2005.

31 (2) Any district opting to return to at-large elections as
32 allowed under subdivision (d) of this section shall return to an at-large
33 election over a period of time as each individual member's position comes up
34 for election based on the staggered term of office for each board position as
35 established by the local board of director.

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SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that local school boards of directors will be unstable if all members have terms that expire at the same time; that a procedure for members to draw lots will be necessary to avoid the instability; and that this act is immediately necessary because a procedure for drawing lots will need to be in place prior to the 2005 annual school elections. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

/s/ Abernathy

APPROVED: 2/24/2005

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