

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 857

"AN ACT TO PROVIDE FOR THE REFORM AND REORGANIZATION OF ARKANSAS
PUBLIC SCHOOLS AS NECESSARY TO PROVIDE AN ADEQUATE AND EFFICIENT
SYSTEM OF PUBLIC EDUCATION."

Amendment No. 2 to Senate Bill No. 857.

Amend Senate Bill No. 857 as engrossed, S3/24/03:

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add additional sections to read as follows:

6-13-111. School districts.

(a) As of January 1, 2004, the following school districts, meeting the requirements in subsection (c) of this section, shall continue to exist offering all courses and curricula through the twelfth (12th) grade if:

(1)(A) The school district existed in this state before the effective date of this act, and has an average daily membership, which shall include enrollment of four (4) year olds in any prekindergarten programs offered by the school district, of seven hundred fifty (750) students or greater.

(B) School districts with a variance of twenty-five (25) students or less and a history of growth may remain a school district under subdivision (a)(1)(A), and shall be allowed two (2) years to reach the required average daily membership, which shall include enrollment of four (4) year olds in any prekindergarten programs offered by the school district, of seven hundred fifty (750);

(2) The school district is made up of all the school districts in the county;

(3) The district is a combination of districts that voluntarily agreed to merge by July 1, 2004 to create a combined district that has an average daily membership, which shall include enrollment of four (4) year olds in any prekindergarten programs offered by the school district, exceeding one thousand (1,000) and one (1) administrative unit.

(b)(1) By July 1, 2004, school districts shall meet adequacy standards with regard to curriculum, facilities, equipment, and teacher salaries.

(2)(A) Beginning July 1, 2004, school districts shall offer forty (40) or more curriculum units for students in grades nine through twelve (9-12) each year, or additional units as may be required by the State



Board of Education after the 2004-2005 school year, which shall not be increased by more than five (5) units per school year.

(B) School districts may participate in class sharing with other districts, concurrent enrollment programs with technical institutes and two-year colleges, and distance learning programs to meet additional curriculum requirements.

(c) On July 1, 2004, any school district not meeting the requirements of subsections (a) and (b) of this section shall be reorganized by the State Board of Education.

6-13-112. Elementary, middle, and junior high schools.

(a) On July 1, 2004, all elementary, middle, and junior high schools that offer courses and curricula through eighth (8th) grade in existence at that time shall remain in existence.

(b) After July 1, 2004, the State Board of Education may determine the need for and location of new elementary, middle, or junior high schools to be located in school districts upon petition of the school board of the school district.

SECTION 2. Arkansas Code § 6-13-109 is amended to read as follows:

6-13-109. School superintendent. [Effective July 1, 2000.]

(a) The public school districts in the state shall each employ a superintendent of schools, whose qualifications and duties shall be prescribed by the General Assembly and the State Board of Education.

(b) "Superintendent of schools" is defined as the executive officer of a school district board of directors directing the affairs of the school district and teaching not more than one-half (1/2) of the time in the school day.

(c) Superintendents shall be employed by written contract for a period of time of not more than three (3) years on terms and conditions negotiated by the superintendent and the school board subject to the laws and statutes of the State of Arkansas.

(d) Notwithstanding any terms and conditions of any contract with a superintendent, the superintendent may be suspended or terminated by the recommendation of the Director of the Department of Education to the State Board of Education for:

(1) Gross misconduct contrary to the laws and statutes of the State of Arkansas applicable to the management and operation of public schools;

(2) Conduct jeopardizing the fiscal or academic status of the district;

(3) Gross incompetence; or

(4) Failure to act to preserve the safety of students and others.

(e) The director shall notify the superintendent of the suspension or the termination recommendation as follows:

(1) The notice shall include a statement of the grounds for the recommendation of the suspension or termination, setting forth the grounds in separately numbered paragraphs so that the superintendent can prepare a defense; and

(2) The notice shall be delivered in person to the superintendent, or sent by registered or certified mail to the

superintendent, at the superintendent's residence address or to the director's residence address, as reflected in their contracts.

(f)(1) Whenever the Director of the Department of Education has reason to believe that cause exists for the suspension or termination of the superintendent, and that immediate suspension of the superintendent is necessary, the director may suspend the superintendent without notice or a hearing.

(2) The director shall notify the superintendent in writing within two (2) school days of the suspension.

(3) The written notice shall include a statement of the grounds for suspension or recommended termination, setting forth the grounds in separately numbered paragraphs so that the superintendent can prepare a defense.

(4) The written notice shall be delivered in person to the superintendent, or sent by registered or certified mail to the superintendent at the superintendent's residence address or to the residence address as reflected in the superintendent's contract, and shall state that a hearing before the State Board of Education is available to the superintendent upon request provided that the request is made in writing within thirty (30) days.

(g)(1) A superintendent who receives a notice of recommended termination or nonrenewal may file a written request with the State Board of Education for a hearing.

(2) The written request for a hearing shall be sent by certified or registered mail to the President, Vice President, or Secretary of the State Board of Education, with a copy to the director, or may be delivered in person by the superintendent to the President, Vice President, or Secretary of the State Board of Education, with a copy to the director, within thirty (30) calendar days after the written notice of proposed termination or suspension is received by the superintendent.

(3) The hearing shall be scheduled by the President, Vice President, or Secretary of the State Board of Education and the superintendent and shall be held within thirty (30) days after a request for the hearing is received by the board.

(4) If sufficient grounds for termination or suspension are not found, the superintendent shall be reinstated without loss of compensation.

(5) Upon receipt of a request for a hearing, the board shall grant a hearing in accordance with the following provisions:

(A) The hearing shall take place at a time agreed upon in writing by the parties, but if no time can be agreed upon, then the hearing shall be held no fewer than thirty (30) days after the written request has been received by the board;

(B) The hearing shall be private unless the superintendent requests that the hearing be public;

(C) The superintendent and the board may be represented by representatives of their choosing;

(D)(i) A full record of the proceedings at the hearing shall be made and preserved.

(ii) The Board shall make and preserve at its own expense a record of the hearing and shall furnish a transcript to the superintendent without cost; and

(E) The board shall not consider at the hearing any new reasons that were not specified in the notice provided pursuant to this

subchapter.

(h) Upon the recommendation of the director to terminate or suspend the superintendent's contract, the board may:

(1) Reject or modify the director's recommendation to terminate or suspend the superintendent's contract;

(2) Vote to continue the contract of the superintendent under the restrictions, limitations, or assurances as the board may deem to be in the best interest of the school district;

(3) The decision shall be reached by the board within ten (10) days from the date of the hearing, and a copy shall be furnished in writing to the superintendent, either by personally delivering it to the superintendent or by addressing it to the superintendent or education service cooperative director by registered or certified mail; and

(4) The salary of a superintendent or director shall cease as of the date the board sustains the recommendation of termination, or upon final adjudication of any appeal of the board's decision, whichever is later.

SECTION 3. Arkansas Code § 6-13-1002 is amended to read as follows:
6-13-1002. Education service cooperatives established - Functions.

(a) The State Board of Education is authorized to establish a statewide system of not ~~more~~ less than fifteen (15) multicounty education service cooperatives of school districts. Such cooperatives shall be intermediate service units in the state's elementary and secondary education system and as such shall be eligible to receive and expend funds from state and federal governments, school districts, and other public or private sources.

(b) Education service cooperatives established by this subchapter will provide to school districts which choose to use them assistance in:

(1) Meeting or exceeding accreditation standards and equalizing educational opportunities;

(2) Using educational resources more effectively through cooperation among school districts; and

(3) Promoting coordination between school districts and the Department of Education in order to provide services which are consistent with the needs identified by school districts and the educational priorities of the state as established by the General Assembly or the board.

(c) Education service cooperatives established by this subchapter shall support and implement state initiatives and programs as designated by the State Board of Education.

SECTION 4. Arkansas Code § 6-13-1003 is amended to read as follows:
6-13-1003. Boundaries - Adjustments.

(a) The State Board of Education shall establish tentative boundaries for the system of cooperatives authorized by this subchapter.

(b) These education service cooperatives will be established so that:

(1) They include at least three (3) but no more than nine (9) counties;

(2) They include at least ten (10) but no more than thirty-five (35) school districts;

~~(3) They include at least twenty thousand (20,000) pupils in kindergarden through grade twelve (K-12) average daily membership;~~

~~(4)~~(3) They include at least one (1) postsecondary education

institution; and

~~(5)~~(4) There is no more than fifty (50) miles distance or approximately one (1) hour driving time to the area's main offices for ninety percent (90%) of the school districts.

(c) The board may make adjustments in the boundaries when criteria such as minimum average daily membership and maximum driving distances conflict. ~~However, no more than four (4) of the areas formed may contain fewer than twenty thousand (20,000) students. In no case shall any cooperative be established with fewer than twelve thousand (12,000) pupils.~~

SECTION 5. Arkansas Code § 6-13-1005 is amended to read as follows:
6-13-1005. Alteration of boundaries.

(a) ~~The State Board of Education, upon the request of one (1) or more school district boards of directors, and~~ consistent with the provisions of § 6-13-1003, may alter the boundaries of a proposed or operational education service cooperative when it determines such alteration to be in the best interest of the school districts in the cooperatives involved.

~~(b) Consistent with provisions of § 6-13-1003, no member of an existing pilot cooperative established under Acts 1983 (1st Ex. Sess.), No. 103 [repealed] nor any member of a cooperative formed after January 1, 1984, under § 6-13-901 et seq., may be moved to another education service cooperative without that member's consent.~~

SECTION 6. Arkansas Code § 6-13-1006 is amended to read as follows:
6-13-1006. Board of directors.

(a)(1) Each education service cooperative shall be governed by a board of directors consisting of no less than one (1) representative appointed by each school district board of directors within the boundary of the cooperative and one (1) representative from an institution of higher education, and one (1) representative from the business community.

(2) The number of members serving on the board, the one (1) representative from an institution of higher education and the one (1) representative from the business community shall be determined by a majority vote of the presidents each school district board of directors within the boundary of the cooperative.

(b) No school district may have official representation on more than one (1) cooperative board of directors.

(c) The board of directors of each established education service cooperative shall function as a public corporate body, shall meet, except as otherwise provided in § 6-13-1007, at least eight (8) times each year, and shall exercise general fiduciary responsibilities for the education service cooperative with regard to policies and practices which guard the integrity of the agency and maintain public trust in its operation.

(d) Such responsibilities, consistent with funds available, shall include, but not be limited to:

(1) Employment of a director of the education service cooperative who shall serve as the nonvoting executive officer of the board of directors;

(2) Establishment of policies and procedures for the operation and management of the education service cooperative which shall be in written form and shall be filed with the State Board of Education;

(3) Preparation of an annual budget estimating income and

expenditures for programs and services in accordance with procedures established by the state board;

(4) Receipt and expenditure of funds needed to provide programs and services in the area;

(5) Making such surveys or other inquiries which may be required to determine the service needs of school districts in the education service cooperative and developing plans to provide such needed services;

(6) Employment, upon the recommendations of the director of the education service cooperative, of such personnel as may be required to provide the services requested by the school districts in the area;

(7) Implementation of policies established by the state board for the operation of education service cooperatives;

(8) Cooperation with other education service cooperatives, school districts, and other agencies to provide programs and services for children and adults residing within their respective areas;

(9) Renting, leasing, or receiving by gift such facilities and buildings as may be required to provide authorized programs and services; and

(10) Carrying out such other duties as may be required for the efficient operation of the education service cooperative for which the board is responsible.

SECTION 7. Arkansas Code § 6-13-1010 is amended to read as follows:
6-13-1010. Director.

(a) Each education service cooperative shall be administered by a director who shall perform the following duties:

(1) Administer the programs and services of the education service cooperative;

(2) Recommend the employment of professional and nonprofessional personnel authorized by the education service cooperative's governing body;

(3) Prepare the budget for adoption by the education service cooperative's governing body;

(4) Direct expenditures of funds within the budget; and

(5) Supply any and all information and reports requested by the Director of the Department of Education in a timely manner; and

~~(5)~~(6) Perform other duties as required by the education service cooperative's governing body and the policies, rules, and regulations of the State Board of Education.

(b) The director of each education service cooperative shall:

(1) Hold an administrator's certificate and meet all requirements to serve as a superintendent of schools in the State of Arkansas; or

(2) Have an equivalent level of education and administrative experience and obtain the approval of the board.

(c) The governing body of any education service cooperative may enter into a contract with a director for a period not to exceed three (3) years.

(d) If the Director of the Department of Education determines that any director of an education service cooperative fails to fulfill any of the provisions of this subchapter, a written report of such finding shall be submitted to the cooperative's board of directors.

(1) If the Director of the Department of Education determines that the cooperative's board of directors fails to adequately address the performance of the cooperative director, the matter may be referred to the

State Board of Education.

(2) The State Board of Education using the same procedure as afforded other licensed personnel, may revoke, suspend, or place on probation the professional license of the director of the cooperative for failing to fulfill any provisions of this subchapter.

SECTION 8. Arkansas Code § 6-13-1011 is amended to read as follows:
6-13-1011. Personnel generally.

(a) Personnel of education service cooperatives shall be employed in accordance with laws, rules, regulations, and procedures applicable to the school districts of this state.

(b) Certificate requirements shall be the same as those expected of persons holding similar positions in local school districts.

(c) Termination or contract nonrenewal of education service cooperative personnel shall be as provided by law for the school district personnel.

(d) No employee of an education cooperative, hired after the effective date of this subdivision (d), shall be related within the second degree of consanguinity of affinity to the director of the education cooperative or any member of the executive committee of the education cooperative.

SECTION 9. Arkansas Code § 6-13-1012 is amended to read as follows:
6-13-1012. Agency personnel.

(a) With the approval of an education service cooperative's governing body, the The directors in the Department of Education may assign state educational agency personnel to ~~that~~ education service ~~cooperative~~ cooperatives, if there is space and monetary support available.

(b) In cases of disagreement, the Director of the Department of Education and the education service cooperative's governing body shall meet to discuss the merits of the assignment.

(c) If agreement is not reached by these discussions, the State Board of Education shall make the final decision.

SECTION 10. Arkansas Code § 6-13-1017 is amended to read as follows:
6-13-1017. Programs and services.

(a) The primary programs and services of each education service cooperative shall be based upon the needs of the school districts included in its service area ~~and upon the educational priorities of the state.~~ Priority shall be given to programs that relate to the educational priorities of the state as established by the State Board of Education.

(b) Each education service cooperative shall provide a teacher center as its basic curriculum and staff development capability.

(c) Education service cooperatives may provide shared educational programs and services such as needs assessment and school improvement planning, staff development, curriculum development, itinerant teachers, instructional materials, adult and vocational education, programs for gifted and talented, education for children with disabilities, alternative educational programs, secondary area vocational centers, community-based education programs and other services which the State Board of Education may approve or which school districts may support with local funds.

SECTION 11. Arkansas Code § 6-13-1019 is amended to read as follows:

6-13-1019. Funding of cooperatives.

(a) The state shall provide funds to support the basic structure of the education service cooperatives established under the provisions of this subchapter.

(b) This structure shall include:

(1) Salaries and fringe benefits for a director, a teacher center coordinator, and support staff;

(2) Costs such as travel, utilities, rent, equipment, and supplies;

(3) Funds to support staff and curriculum development activities; and

(4) Funds in an annual amount not to exceed twenty-five thousand dollars (\$25,000) for the travel expenses of itinerant personnel employed by the education service cooperative to serve the part-time needs of local districts.

(c) School districts may contract with their education service cooperative for services and part-time personnel to be supported in whole or in part by local funds, but no school district shall be assessed a membership fee.

(d) Categorical state or federal funds may also be assigned to any education service cooperative ~~upon approval of its governing body and~~ under conditions set by the State Board of Education.

(1) In cases of disagreement, the Director of the Department of Education and the education cooperative's governing body shall meet to discuss the merits and concerns of the fund assignment.

(2) If agreement is not reached by these discussions, the State Board of Education shall make the final decision.

(e) As a public agency, each education service cooperative shall be eligible to receive and expend public and private funds.

SECTION 12. Arkansas Code § 6-13-1021 is amended to read as follows:
6-13-1021. Evaluations.

(a) Within each five-year period, on a schedule established by the Director of the Department of Education, all active education service cooperatives must be visited by an evaluation committee of not more than nine (9) persons. The Director of the Department of Education may assemble such committee at times other than that reflected by the established schedule.

(b) Each evaluation shall include, but not be limited to, an investigation of user satisfaction, service adequacy, extent of local financial support, staff qualifications, ~~and~~ performance and administration effectiveness, and support and implementation of state initiatives as designated by the State Board of Education.

(c)(1) The report of this committee shall be filed with the cooperative visited, with its constituent school districts, and with the State Board of Education.

(2) The board shall acknowledge receipt of the report and comment on any deficiencies identified in the report which should be corrected for the cooperative to remain eligible for base funding.

(d) The intent of this evaluation procedure is to provide a means for school districts to express their concerns about the operation of their cooperative and to ensure that each education service cooperative remains alert and responsive to the needs of the local schools it serves, and to

ensure that state initiatives as designated by the State Board of Education are supported and implemented.

(e)(1) For each evaluation, the director shall appoint the committee and designate its chairperson.

(2) The committee shall include the following from outside the boundary of the education service cooperative being evaluated:

- (A) A Department of Education staff member;
- (B) A teacher;
- (C) An administrator;
- (D) A college staff member; and
- (E) A present or former staff member of an area education service agency.

(3) In addition, the committee shall include from within the cooperative's area:

- (A) A member of the school district board of directors;
- (B) A representative of business and industry; and
- (C) A school parent from each of two (2) school districts.

(4) Each cooperative shall pay the reasonable costs of its evaluation.

6-13-1022. Dissolution of cooperative.

(a) ~~After 1990, the~~ The State Board of Education shall be authorized to dissolve any education service cooperative upon the request of a majority of its school district boards of directors or upon the recommendation of the evaluation committee provided for in § 6-13-1021.

(b) A dissolved education service cooperative's area shall be assigned to one (1) or more adjacent education service cooperatives, the provisions of § 6-13-1003 notwithstanding, with the dissolved cooperative's base funding apportioned to all remaining education service cooperatives in the state.

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

6-15-213. Failure to meet standards.

(a) The State Board of Education may reorganize any school district that fails to meet the curriculum, accreditation, efficiency, or facilities standards or teacher salary requirements as determined by the Department of Education and the Arkansas General Assembly.

(b)(1) The board shall have complete authority to reorganize a school district under subsection (a) in any manner that the board determines is necessary.

(2) To reorganize a school district the board may consolidate, annex, merge, or detach part of the school district with one (1) or more other school districts or dissolve the school district into multiple school districts.

(c) If a school district fails to meet curriculum, accreditation, efficiency, or facilities standards or teacher salary requirements in any given year, the Director of the Department of Education shall take immediate action to correct the situation including, but not limited to, removal of the superintendent, or local school board of directors, or both.

SECTION 14. Arkansas Code § 6-17-920(a), pertaining to examination of teachers' contracts, is amended to read as follows:

(a) It shall be the duty of the county clerk when the teachers' contracts are filed, as required by §§ ~~6-13-620~~ 6-13-643 and 6-17-919, to examine such contracts.

SECTION 15. Arkansas Code § 6-47-201 is amended to read as follows:
6-47-201. Administration in elementary schools.

(a)(1) The Department of Education shall oversee and coordinate the implementation of distance learning in elementary and secondary public schools in the state.

(2) Distance learning shall be available to all school districts in the state by August 1, 2004.

(b) The department shall promulgate rules and regulations establishing appropriate adult supervision.

(c) The elementary or secondary school may import courses from outside the state. However, ~~the course curriculum shall be approved by the department prior to offering the courses through distance learning~~ before offering the courses through distance learning, the department shall approve the course curriculum.

(d) The courses offered through distance learning shall include, but not be limited to:

(1) College preparatory courses, including, but not limited to, calculus, physics, Arkansas history, foreign languages, and computer science; and

(2) Technological courses, including, but not limited to, advanced math and science courses, advanced computer skills courses, and advanced courses in the arts.

(e) The department shall work with the Arkansas School for Mathematics and Sciences, the Arkansas Educational Television Commission, the education service cooperatives, and other state agencies involved in distance learning or in implementing distance learning.

SECTION 16. Arkansas Code § 6-47-302 is amended to read as follows:
6-47-302. Implementation in elementary and secondary schools – Courses offered.

(a) The Department of Education shall plan for the statewide implementation of distance learning in elementary and secondary public schools in the state.

(b) The elementary or secondary school may utilize courses from outside the state. However, ~~the course curriculum shall be reviewed by the Department of Education or the Department of Workforce Education prior to offering the courses through distance learning~~ Department of Education or the Department of Workforce Education, before offering the courses through distance learning, shall review the course curriculum.

(c) The courses offered through distance learning may include college preparatory courses, advanced mathematics and science courses, and technological courses.

(d) The Department of Education shall work with the Arkansas School for Mathematics and Sciences, the Arkansas Educational Television Commission, the education service cooperatives, the Arkansas State Library, and other state agencies involved in distance learning.

SECTION 17. Arkansas Code § 26-80-111 is amended to read as follows:

26-80-111. School districts formed by consolidation, annexation, or merger.

(a) When a new school district is created from all or parts of two (2) or more districts or a district is dissolved and all or part of the area of the dissolved district is annexed to or consolidated with an existing district, the board of directors of the resulting district shall submit to the electors of the district at the ~~next annual~~ first school election on the millage rate a proposed tax millage rate for the district. If the ~~proposed millage rate is approved by the electors of the district~~ electors of the district approve the proposed millage rate, it shall be the rate for the district, provided such rate complies with the uniform rate of tax.

(b) If a new school district is created from all or parts of two (2) or more districts or a district is dissolved and all or part of the area of the dissolved district is annexed to or consolidated with an existing district and if the electors have failed to approve a proposed millage rate at ~~an annual~~ a school election on the millage rate, then the ~~millage rate for the district shall be the millage rate levied, at the last school election prior to the consolidation, annexation or merger in the district which had the highest average daily membership during the school year preceding the consolidation, annexation, or merger, provided such rate complies with the uniform rate of tax~~ millage shall be collected at the rate approved in the last preceding school election. However, if the rate last approved has been modified pursuant to subsection (b) or (c)(2) of Amendment 74 to the Arkansas Constitution, the tax shall be collected at the modified rate until another rate is approved.

SECTION 18. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the now extent system of education to be unconstitutional because it is both inequitable and inadequate; and 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"; and the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas, forthwith. 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."

The Amendment was read the first time, rules suspended and read the second time and _____
By: Senator Bryles
KAS/VJF - 041020031436
VJF914 _____ Secretary