

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Hopkins**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR REVIEW AND CIVIL PENALTIES FOR
9 VIOLATING CERTAIN ARKANSAS LAWS RELATING TO FISCAL
10 RESPONSIBILITY AND MANAGEMENT OF SCHOOL DISTRICTS; AND FOR
11 OTHER PURPOSES."

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

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15 SECTION 1. Short title. This act may be known and cited as the "School
16 District Fiscal Management Responsibility Act".

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18 SECTION 2. Definitions. As used in this act, unless the context
19 otherwise requires:

20 (1) "Executive officer" is the superintendent of the school district.

21 (2) "Fiscal responsibility and management laws" means A.C.A. §6-13-
22 618(b) (School Disbursing Officer), §§6-13-701 - 6-13-703 (District
23 Treasurer), §§6-17-901 - 6-17-922 (Teachers' Salary), §§6-20-101 - 6-20-1515
24 (School Finance), and §§6-21-301 - 6-21-305 (Acquisition of Commodities).

25 (3) "Knowingly" means that a person is aware or should be aware that
26 his conduct will violate the fiscal responsibility and management laws.

27 (4) "Public officer or employee" means any officer or employee of a
28 public school district located in the State of Arkansas.

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30 SECTION 3. Compliance with fiscal responsibility and management laws.
31 All public officers and employees shall comply with the provisions of the
32 fiscal management and responsibility laws contained in this act.

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34 SECTION 4. Investigation by executive officer. Upon discovery or
35 notification of an alleged violation of the fiscal responsibility and

1 management laws, the executive officer of the school district shall promptly
2 investigate such allegations and take appropriate administrative action.

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4 SECTION 5. Referral to prosecuting attorney.

5 (a) If the executive officer determines that there has been a violation
6 of the fiscal responsibility and management laws, the executive officer may
7 request the appropriate prosecuting attorney to conduct an investigation
8 regarding the alleged violations.

9 (b) The Legislative Joint Auditing Committee may request the
10 appropriate prosecuting attorney to conduct an investigation regarding
11 violations of the fiscal responsibility and management laws documented in the
12 audit report.

13 (c) The prosecuting attorney shall conduct a timely investigation into
14 all matters referred to him under the provisions of this act. If the
15 prosecuting attorney fails to conduct a timely investigation or file a civil
16 suit under the provisions of this act, the executive officer or the
17 Legislative Joint Auditing Committee may request the Attorney General to
18 conduct an investigation into the violations. If requested the Attorney
19 General shall conduct a timely investigation into the alleged violations.

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21 SECTION 6. Civil Suit by prosecuting attorney. After conducting an
22 investigation into the alleged violations, the appropriate prosecuting
23 attorney or the Attorney General may file a civil suit in circuit court
24 against the public officer or employees alleged to have violated the fiscal
25 responsibility and management laws. Venue shall be in the county where the
26 school district is located.

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28 SECTION 7. Rebuttable presumption. If the public officer or employee
29 does not correct any violation or items of noncompliance with the fiscal
30 responsibility and management laws within thirty (30) days after the
31 violations were brought to the attention of the public officer or employee, by
32 the appropriate executive officer or the Legislative Joint Auditing Committee,
33 a rebuttable presumption is created that any violation not corrected was
34 committed knowingly. Notification to the public officer or employee under
35 this provision shall be by certified mail with return receipt requested, or by

1 any other means providing actual notice to the public officer or employee.

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3 SECTION 8. Civil penalty. If the public officer or employee is found
4 by the court to have knowingly violated the provisions of the fiscal
5 responsibility and management laws, the public officer or employee shall be
6 fined not less than one hundred dollars (\$100), not more than one thousand
7 dollars (\$1,000) for each violation, and may be subject to the payment of
8 damages resulting as a direct consequence of any violation.

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10 SECTION 9. Recovery of costs. If the public officer or employee is
11 found by the court to have knowingly violated the provisions of the fiscal
12 responsibility and management laws, the prosecuting attorney or the Attorney
13 General shall be allowed to recover costs and attorney fees associated with
14 the civil suit from the public officer or employee. Any costs or fees
15 recovered by a prosecuting attorney under this provision shall be deposited
16 into an account administered by the prosecuting attorney and shall be used for
17 expenses of the office. Any costs or fees recovered by the Attorney General
18 under this provision shall be deposited into the State Treasury.

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20 SECTION 10. Civil procedures apply. All actions and procedures under
21 the provisions of this act are civil in nature and shall be governed by the
22 appropriate rules, regulations, and laws regarding civil actions and remedies.

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24 SECTION 11. Existing remedies not impaired. The provisions of this act
25 are supplemental to any other remedies available by law. In addition, the
26 provisions of this act shall not limit or diminish any civil rights or
27 administrative procedures available to any public officer or employee of the
28 school district.

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30 SECTION 12. All provisions of this act of a general and permanent
31 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
32 Code Revision Commission shall incorporate the same in the Code.

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34 SECTION 13. If any provision of this act or the application thereof to
35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this
3 act are declared to be severable.

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5 SECTION 14. All laws and parts of laws in conflict with this act are
6 hereby repealed.

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