

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Mahony**

A Bill

HOUSE BILL 1726

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 6-20-413 TO
9 EXPAND THE AUTHORITY OF THE STATE DEPARTMENT OF EDUCATION
10 TO ASSIST A SCHOOL DISTRICT EXPERIENCING FISCAL DISTRESS
11 AND TO INSURE THAT A FISCAL CRISIS WILL NOT INTERRUPT THE
12 EDUCATIONAL SERVICES PROVIDED TO THE STUDENTS OF A SCHOOL
13 DISTRICT; AND TO DECLARE AN EMERGENCY; AND FOR OTHER
14 PURPOSES."

Subtitle

16
17 "TO EXPAND THE AUTHORITY OF THE DEPARTMENT OF EDUCATION TO
18 ASSIST SCHOOL DISTRICTS EXPERIENCING FISCAL DISTRESS."

19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code § 6-20-413 is hereby amended to read as
23 follows:

24 "6-20-413. Fiscal distress.

25 (a) The State Board of Education is hereby authorized to develop
26 indicators of fiscal distress in school districts and to promulgate the
27 necessary rules and regulations so that the Director of the General Education
28 Division of the Department of Education shall provide technical assistance to
29 school districts determined by the Director to be in fiscal distress and shall
30 insure, to the extent possible, that a fiscal crisis will not interrupt the
31 educational services provided to the students of a school district.

32 (b) In providing technical assistance to a school district in fiscal
33 distress, the Director shall have the authority to *request that Legislative*
34 *Audit perform an immediate audit.*

35 (c) If Legislative Audit determines that the expenses of the

1 school district exceed revenue receipts, as defined by § 6-20-401(1),
2 *Legislative Audit shall immediately file a report stating its findings with*
3 *the Joint Interim Committee on Education, the Joint Audit Committee, the*
4 *Arkansas Department of Education, and the prosecuting attorney responsible for*
5 *prosecuting actions within the local school district's attendance area.*

6 (d) (1) *Upon receipt of Legislative Audit's report indicating that the*
7 *district's expenses exceed revenue receipts, the prosecuting attorney shall*
8 *investigate to determine if there has been a violation of state law.*

9 (2) *The prosecuting attorney shall remove from office any local*
10 *school board member found in violation of state law and shall request the*
11 *Arkansas Department of Education to oversee the administration of the district*
12 *for an interim period until the department can determine what is in the best*
13 *interests of the students in the district.*

14 (3) *The failure of the prosecuting attorney to file a timely*
15 *action once notified shall be considered neglect of duty, subjecting the*
16 *prosecuting attorney to the provisions of § 16-21-116.*

17 (e) *During the interim period, the Director shall have authority to do*
18 *what is necessary to provide an education to the students of the district,*
19 *including, but not limited to the following:*

20 (1) *To take over the administration of the district, requiring*
21 *the local superintendent to relinquish all authority with respect to the*
22 *district, and to appoint an administrator to be responsible for operating the*
23 *district under the supervision of the Director.*

24 (2) *To use set aside funds created by § 6-20-313(7) to compensate*
25 *the appointed administrator for operating the local school district.*

26 (3) *To have all powers and duties of a local school board under §*
27 *6-13-620.*

28 (4) *With the exception of § 6-17-1501 et seq. and § 6-17-1701 et*
29 *seq., to waive the application of state law or Department of Education*
30 *regulations to the financially distressed school district.*

31 (5) *To determine, after consultation with the appointed*
32 *administrator, whether it is financially feasible to continue operation of the*
33 *local district or whether annexation to an adjacent district or districts is*
34 *necessary; and*

35 (6) *If annexation to an adjacent district or districts is*

1 necessary, to have exclusive authority in determining the boundary lines of
2 the new district or districts, to allocate the assets and the liabilities of
3 the financially distressed district, and to allocate funds to complete the
4 current school year from the set aside funds established by § 6-20-313(7) to
5 any district or districts receiving a portion of the financially distressed
6 district.

7 (7) To call for an election of a new school board for the
8 district if, after consultation with the appointed administrator, the Director
9 determines that continued operation of the district without annexation to
10 another district or districts is financially feasible; and

11 (8) To turn the administration of the district over to the newly
12 elected school board. The district shall reimburse county board(s) of
13 election commissioners for the costs of the election as otherwise provided by
14 law.

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16 SECTION 2. Arkansas Code § 6-20-313 is hereby amended to read as
17 follows:

18 "6-20-313. Other set-aside funds.

19 Other set-aside funds shall be as follows:

20 (1) Funds required for the Department of Correction school district;

21 (2) Two hundred fifty thousand dollars (\$250,000) annually for
22 contingency aid to school districts undergoing hardships or emergencies
23 identified by criteria approved by the State Board of Education and with an
24 amount not to exceed fifteen thousand dollars (\$15,000) being awarded to any
25 one (1) school district;

26 (3) One hundred seventy-five thousand dollars (\$175,000) for those
27 districts identified as isolated by criteria approved by the State Board of
28 Education, provided that any school district receiving such aid shall have
29 voted at the previous school election a millage levy equal to at least the
30 state millage charge on real property, as set forth in § 6-20-306(a);

31 (4) Funds sufficient to pay the school employee liability insurance
32 required by § 6-17-1113 and funds necessary to pay the amounts required by §§
33 6-20-302(13), 6-20-306(d), and 6-20-309;

34 (5) Funds shall also be set aside to pay for the educational costs of
35 nonhandicapped children who have been placed in approved residential treatment

1 facilities, as defined by the Arkansas Department of Education (ADE), Division
2 of Special Education, up to an amount equal to the product of the regular ADM
3 count plus an add-on weight of three and one-tenth (3.1) for residential
4 placement and the state base equalization rate; and for the educational costs
5 of nonhandicapped children in school districts not qualifying for any Minimum
6 Foundation Program Aid, who have been placed in approved residential treatment
7 facilities as defined by the ADE, Division of Special Education, up to an
8 amount equal to the product of the regular ADM count plus an add-on weight of
9 three and one-tenth (3.1) for residential placement, and the state base
10 equalization rate;

11 (6) Funds shall also be set aside to pay for the educational costs of
12 handicapped children, including those in school districts not qualifying for
13 any Minimum Foundation Program Aid, who have been placed in approved
14 residential treatment facilities, as defined by the Arkansas Department of
15 Education, Division of Special Education, up to an amount equal to the product
16 of the regular ADM count plus an add-on weight of three and one-tenth (3.1),
17 and the state base equalization rate, regardless of the setting in which the
18 education is provided. An add-on weight of three and one-tenth (3.1) is to be
19 used if the student must receive his or her educational program in a special
20 residential school. An add-on weight of two and thirty-five hundredths (2.35)
21 is to be used if the student must receive his education in a special day
22 school and the state base equalization rate. Educational costs funded under
23 this subsection are specifically covered by §6-20-316(b).

24 (7) Funds shall be set aside for the costs of appointing an
25 administrator to operate a school district whose daily operation is taken over
26 by the Arkansas Department of Education pursuant to § 6-20-413 and for
27 allocating aid to a district or districts which receives by annexation any
28 portion of a district that the Director of the General Education Division of
29 the Department of Education has determined is in fiscal distress."

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31 SECTION 3. All provisions of this act of a general and permanent nature
32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
33 Revision Commission shall incorporate the same in the Code.

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35 SECTION 4. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

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

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9 SECTION 6. EMERGENCY. It is hereby found and determined by the Seventy
10 Ninth General Assembly that a number of local school districts in Arkansas are
11 experiencing fiscal distress which could require the districts to shut school
12 down before the end of the current school year and that this Act should
13 therefore be given effect immediately so that the State Department of
14 Education can take action to insure that the schools will remain open for the
15 entire school year. Therefore, an emergency is hereby declared to exist and
16 this Act being immediately necessary for the preservation of the public peace,
17 health and safety shall be in full force and effect from and after its passage
18 and approval.

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/s/J. Mahony

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