

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.

1 State of Arkansas *As Engrossed: H2/24/03 H2/27/03 H4/4/03*

2 84th General Assembly

# A Bill

3 Regular Session, 2003

HOUSE BILL 1539

4

5 By: Representative Mahony

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## For An Act To Be Entitled

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AN ACT TO PROHIBIT LOCAL SCHOOL BOARDS OF

10

EDUCATION FROM ENTERING INTO CONTRACTS, EXCEPT

11

UNDER CERTAIN CONDITIONS, UNTIL JULY 1, 2004; AND

12

FOR OTHER PURPOSES.

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14

## Subtitle

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AN ACT TO PROHIBIT LOCAL SCHOOL BOARDS

16

OF EDUCATION FROM ENTERING INTO

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CONTRACTS, EXCEPT UNDER CERTAIN

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CONDITIONS, UNTIL JULY 1, 2004; AND FOR

19

OTHER PURPOSES.

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

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SECTION 1. Arkansas Code § 6-13-620 is amended to read as follows:

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6-13-620. Powers and duties.

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(a) The Except as prohibited under subsections (b) and (c) of this

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section, the board of directors of each school district in the state shall be charged with the following powers and perform the following duties:

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(1) Have the care and custody of the schoolhouse, grounds, and

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other property belonging to the district and shall keep it in good repair and in sanitary and sightly condition;

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(2) Lease sixteenth section lands located in the school

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district, individually or in conjunction with the other boards of directors of other school districts interested in the sixteenth section, as the case may be;

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(3) Purchase buildings or rent schoolhouses and sites therefor

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1 and sell, rent, or exchange the sites or schoolhouses;

2 (4)(A) Employ teachers and other employees necessary for the  
3 proper conduct of the public schools of the district and make written  
4 contracts with teachers and all other employees in the form prescribed by the  
5 State Board of Education.

6 (B) There shall be four (4) copies of each contract made:

7 (i) One (1) copy to be retained by the board;

8 (ii) One (1) copy to be given to the employee;

9 (iii) One (1) copy to be forwarded to the county  
10 treasurer if the county treasurer serves as treasurer for the school  
11 district; and

12 (iv) One (1) copy to be filed with the county clerk.

13 (C) The issuing of annual contracts to personnel other  
14 than substitute teachers employed on a daily basis and teachers shall be in  
15 writing and shall recite the duration of employment, specific duties, and  
16 annual salary;

17 (5) See that all subjects for study prescribed by the state  
18 board or by law for all grades of schools in their district are taught;

19 (6) Visit classrooms frequently, but no less than annually, in  
20 the schools in their district while children are present, see to the welfare  
21 of the pupils, encourage them in their studies, and assist the teachers in  
22 the work so far as they can;

23 (7) Prepare and publish the district's budget for the ensuing  
24 year, in accordance with § 6-13-622;

25 (8) Issue warrants on the county treasurer, when the county  
26 treasurer serves as treasurer of the school district, in accordance with the  
27 provisions of this act for the payment of salaries due teachers and other  
28 employees and for any other lawful purposes and state in the warrants the  
29 consideration for which each is drawn, provided that the issuance of the  
30 warrants for the purposes set out in subdivision (10) of this section shall  
31 be governed by the penalty therein set out. The warrant shall be in the form  
32 approved by the state board;

33 (9) Obtain from the county collector and county treasurer  
34 information from time to time as to the state of finances of their school  
35 district and keep their expenditures safely within the means of the district;

36 (10) Buy and pay for out of district school funds supplies such

1 as fuel, crayons, charts, globes, dictionaries, etc. which may be necessary  
2 for the efficient operation of the schools, provided, no warrants shall be  
3 issued by any school board for the payment of the supplies or services set  
4 out in this subdivision (10) until the supplies or services shall have been  
5 delivered to the school. If any school board or any part of the directors of  
6 any school board in the State of Arkansas shall issue warrants in payment of  
7 supplies or services prior to the delivery of the supplies or services to the  
8 school and if the school district suffers any loss because of the failure of  
9 the seller to deliver the supplies or services or because of the defective  
10 quality of the supplies or services or for any other reason, then the  
11 directors shall be personally liable to the school district for the total  
12 amount of loss suffered by the district;

13 (11)(A) If in any school district it should be apparent that the  
14 schools cannot be operated for the remainder of the school year without  
15 incurring more indebtedness than that represented by outstanding bonds and  
16 those that may be issued for buildings, equipment for the school buildings,  
17 purchasing sites, and repairing school buildings or the improvement of sites,  
18 it shall be the duty of the school district board of directors to close the  
19 school and cease paying the teachers for the remainder of that fiscal year.  
20 Each contract made with the teachers shall be subject to that contingency,  
21 and the district shall not be liable for teachers' salaries for the time the  
22 school is so closed.

23 (B) Should any director participate in keeping a school  
24 open and incurring additional expenses which would cause increased  
25 indebtedness of the district prohibited in this subdivision (11), he or she  
26 shall be liable personally for the amount of such additional indebtedness.

27 (C) However, in cases of emergency, the state board may  
28 grant special permission to a district to create temporary current  
29 indebtedness.

30 (D) Nothing herein shall prevent any school district board  
31 of directors from borrowing money from banks, from individuals, or from next  
32 year's revenue in order to provide funds in such amount that the maximum  
33 nonbonded indebtedness of its school district so incurred shall not be  
34 greater than the maximum nonbonded indebtedness of the district was at any  
35 time during the preceding fiscal year.

36 (E) If any nonbonded debt is funded by the issuance of

1 bonds, the amount so funded shall not be considered in determining the  
2 maximum amount of nonbonded indebtedness during the preceding fiscal year;

3 (12) Do all other things necessary and lawful for the conduct of  
4 efficient free public schools in the district;

5 (13) Publish on the district's web site, if the district has a  
6 web site:

7 (A) Minutes of regular and special meetings of the school  
8 board;

9 (B) The budget for the ensuing year;

10 (C) Financial breakdown of monthly expenses of the  
11 district;

12 (D) Salary schedule for all employees;

13 (E) The school district's yearly audit; and

14 (F) The annual statistical report; and

15 (14) If a district does not have a web site, then on or before  
16 July 1, 2003, the district's educational cooperative shall develop a web site  
17 for the district, or the cooperative shall enter into an agreement with a  
18 local city, county, or other local governmental agency to have the district's  
19 information as required in subdivision (13) of this section published on an  
20 existing local city, county, or other local governmental agency's web site.

21 (b) Beginning on the effective date of this subsection (b) through  
22 July 1, 2004, notwithstanding any other provision of law, no school board of  
23 directors of any public school, or any governing body of a charter school or  
24 an education cooperative shall enter into any contractual or project  
25 obligation exceeding seventy-five thousand dollars (\$75,000) or one percent  
26 of the district's Total State and Local Revenues for Additional Base Funding,  
27 as defined on lines 15 and 16 of the Department of Education's May 16, 2002  
28 State Aid notice, whichever is greater, for the purchase, sale, construction,  
29 improvement, or repair of equipment, facilities, motor vehicles, buildings,  
30 or real property sites without the prior written approval of the State Board  
31 of Education or the Director of the Department of Education as allowed in  
32 emergency situations.

33 (c) Beginning on the effective date of this subsection (c) through  
34 July 1, 2004, notwithstanding any other provision of law, no school board of  
35 directors of any public school district or charter school shall enter into  
36 any personal, professional, or other service contract on behalf of the school

1 district for a time period greater than one (1) year without prior written  
 2 approval of the State Board of Education.

3 (d) Subsection (b) and (c) of this section shall not apply to:

4 (1) Currently binding contractual obligations;

5 (2) Enforceable court-ordered mandates;

6 (3) Contracts entered into in connection with a bond issuance or  
 7 a project financed with an issuance of bonds previously approved by the State  
 8 Board of Education as required by law, or

9 (4) Regularly scheduled maintenance projects.

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 11 SECTION 2. Arkansas Code § 6-17-301 is amended to read as follows:

12 6-17-301. Employment of certified personnel.

13 (a) ~~District~~ Except as prohibited under subsections (c) and (d) of  
 14 this section, school boards may employ superintendents, deputy  
 15 superintendents, assistant superintendents, and high school principals, as  
 16 well as department heads, coaches, teachers, and other certified personnel,  
 17 by written contract for a period of time not more than three (3) years.

18 (b) Such contracts may be renewed annually.

19 (c) Beginning on the effective date of this subsection (c) through  
 20 July 1, 2004, notwithstanding any other provision of law except for currently  
 21 binding contractual obligations or enforceable court ordered mandates, no  
 22 Arkansas public school district board of directors, or the governing board of  
 23 an educational cooperative or charter school may employ or extend the  
 24 employment contract of any superintendent, assistant superintendent, school  
 25 principal, department head, coach, teacher, or other certified or non-  
 26 certified personnel for a period of time not more than one (1) fiscal year,  
 27 without the prior written approval of the State Board of Education or the  
 28 Director of the Department of Education as allowed in emergency situations.

29 (d) No employment contract or extension to an employment contract  
 30 entered on or after the effective date of this subsection (d) through July 1,  
 31 2004, may have a combined total increase in salaries, income, and benefits of  
 32 greater than seven and one-half percent (7.5%) of the immediate previous  
 33 existing contract for the same or substantially similar personnel position  
 34 without the prior written approval of the State Board of Education, except  
 35 for salary or benefit increases legislatively approved and mandated by the  
 36 Arkansas General Assembly, specifically including but not limited to, pay

1 increases under the Educator's Compensation Act of 2001, or any salary  
 2 increase based an increment for experience or training published in a  
 3 currently approved school district salary schedule.

4 SECTION 3. Arkansas Code § 6-17-410(e)(2), concerning revocation of a  
 5 teacher's license, is amended to add an additional subdivision to read as  
 6 follows:

7 (2) For the purposes of this subsection, "cause" means any of the  
 8 following:

9 (A) Pleading guilty or nolo contendere to or being found guilty  
 10 of a felony not listed in subsection (c) of this section;

11 (B) Pleading guilty or nolo contendere to or being found guilty  
 12 of a nonfelony negligent homicide or a misdemeanor involving physical  
 13 mistreatment or abuse against a child and not listed in subsection (c) of  
 14 this section;

15 (C) Holding a license obtained by fraudulent means;

16 (D) Revocation of a license in another state;

17 (E) Intentionally compromising the validity or security of any  
 18 student test or testing program administered by or required by the board or  
 19 the Department of Education;

20 (F) Having the completed examination test score of any testing  
 21 program required by the board for teacher licensure declared invalid by the  
 22 testing program company and so reported to the Department of Education by the  
 23 testing company;

24 (G) Having an expunged or pardoned conviction for any sexual or  
 25 physical abuse offense committed against a child; ~~or~~

26 (H) Failing to establish or maintain the necessary requirements  
 27 and standards set forth in Arkansas law or board rules and regulations for  
 28 teacher licensure; or

29 (I) Having knowingly and intentionally violated the provisions  
 30 of § 6-17-301(c) and (d), or § 6-20-1201.

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 32 SECTION 4. Arkansas Code § 6-20-1201 is amended to read as follows:

33 6-20-1201. Authority to borrow money and issue negotiable bonds.

34 (a) Except as prohibited by subsection (b) of this section, all  
 35 school districts are authorized to borrow money and to issue negotiable bonds  
 36 for the repayment thereof from school funds for the building and equipping of

1 school buildings, for making additions and repairs thereto, for purchasing  
 2 sites therefor, for purchasing new or used school buses, for refurbishing  
 3 school buses, for the professional development and training of teachers or  
 4 other programs authorized under the federally recognized Qualified Zone  
 5 Academy Bond program codified at 26 U.S.C. § 1397E, and for paying off  
 6 outstanding postdated warrants, installment contracts, revolving loans, and  
 7 lease-purchase agreements, as provided in this act.

8 (b) No school district shall have the authority to act in accordance  
 9 with the provisions of subsection (a) of this section from the effective date  
 10 of this subdivision (b) through July 1, 2004, without the prior written  
 11 approval of the State Board of Education or the Director of the Department of  
 12 Education as allowed in emergency situations.

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 14 SECTION 5. (a) Any school district, local board of directors or other  
 15 person seeking prior written approval from the State Board of Education or  
 16 the Director of the Department of Education under Arkansas Code § 6-17-301(c)  
 17 and (d), § 6-13-620(15) and (16), and § 6-20-1201, shall send a written  
 18 petition to the Director of the Department of Education, no less than fifteen  
 19 (15) days prior to the next regularly scheduled State Board of Education  
 20 meeting, requesting that the matter be placed on the agenda of the State  
 21 Board of Education at next regularly scheduled State Board of Education  
 22 meeting and include in the petition:

23 (1) The names and addresses of the requestor and of all parties  
 24 to the contract;

25 (2) A statement explaining the purpose of the contract or  
 26 project;

27 (3) The total expected contract price or project amount; and

28 (4) A copy of the proposed contract or project proposal.

29 (b)(1) The State Board of Education shall hear all petitions filed  
 30 under subsection (a), and based on the State Board of Education's  
 31 determination of whether the petition would be in the best interest of the  
 32 state's system of education, shall:

33 (A)(i) Approve the petition, in whole or any part thereof;

34 (ii) Deny the petition, in whole or any part  
 35 thereof; or

36 (iii) Request additional information with respect to

1 any part of the petition or additional time to consider the petition; and  
 2 (B) Send a written notice of the board's action to the  
 3 requestor no less than five (5) days following the meeting.

4 (2) The State Board of Education may deny any petition because  
 5 of the failure to provide sufficient information as requested by the State  
 6 Board of Education or required under subsection (a) of this section.

7 (c) When and if a school district superintendent declares in a written  
 8 petition to the Director of the Department of Education that a school  
 9 district must take immediate action to address a need of the district, and  
 10 the necessary action is of nature and circumstance that the local school  
 11 district would be unduly harmed to wait until the next regularly scheduled  
 12 State Board of Education meeting for approval, the director may, in his sole  
 13 discretion, declare that an emergency exists and approve in whole or in part  
 14 the requested contract, obligation, expenditure or project as necessary to  
 15 remedy the emergency condition of the school district.

16 (d) For purposes of this section, "project" means any contract or  
 17 combined contractual obligations related to a specific purchase, sale,  
 18 construction, improvement, or repair of equipment, facilities, motor  
 19 vehicles, buildings, or real property sites.

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 21 SECTION 6. Title 6, Chapter 24, Subchapter 1 is amended by adding an  
 22 additional section to read as follows:

23 6-24-120. Violations.

24 (a) Any board member, administrator, employee or non-employee of a  
 25 public school district, educational cooperative or charter school who  
 26 knowingly and intentionally violates the provisions of § 6-17-301(c) or (d),  
 27 § 6-13-620(15) or (16) or § 6-20-1201 shall be guilty of an unclassified  
 28 misdemeanor and subject to a fine in the amount of one thousand dollars  
 29 (\$1,000).

30 (b) Any board member of a public school district, educational  
 31 cooperative, or charter school who shall knowingly and intentionally violates  
 32 the provisions of § 6-17-301(c) or (d), § 6-13-620(15) or (16), or § 6-20-  
 33 1201 shall be subject to removal from office under § 6-13-612.

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 35 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the  
 36 General Assembly of the State of Arkansas that on November 21, 2002, the



1 Arkansas Supreme Court ruled in the matter of Lake View School District No.  
2 25, et al. v. Mike Huckabee, Governor, et al. that the Arkansas school  
3 funding system is unconstitutional under Article 14 §1 and Article 2, §§ 2,  
4 3, and 18 of the Arkansas Constitution; that as a result of the ruling the  
5 General Assembly must review the education system in Arkansas in order to  
6 ensure that every student in the Arkansas public school system has an equal  
7 opportunity to obtain an adequate education; and that this act is immediately  
8 necessary to prevent unnecessary legal obstacles and impediments to the  
9 General Assembly's ability to act in an efficient and expeditious manner in  
10 this regard. Therefore, an emergency is declared to exist and this act being  
11 immediately necessary for the preservation of the public peace, health, and  
12 safety shall become effective on:

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

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

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

19 */s/ Mahony*

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