

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

As Engrossed: H1/26/04
A Bill

Call Item 4

HOUSE BILL 1140

5 By: Representatives Walters, Harris, Medley, Jeffrey, Norton, Blair
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For An Act To Be Entitled

9 AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR
10 FRAUDULENT ACTS BY FISCAL OFFICERS OF PUBLIC
11 SCHOOL DISTRICTS; AND FOR OTHER PURPOSES.
12

Subtitle

14 AN ACT TO REQUIRE CRIMINAL BACKGROUND
15 CHECKS FOR FRAUDULENT ACTS BY FISCAL
16 OFFICERS OF PUBLIC SCHOOL DISTRICTS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 6-17-421. Criminal records check for fraudulent acts.

22 (a) For purposes of this section:

23 (1) "Applicant" means an individual that is applying for initial
24 employment as a fiscal officer of a school district;

25 (2) "Fiscal officer" means any certified or noncertified
26 employee of a school district or education service cooperative who has any
27 right, duty, or responsibility to access funds of a school district in excess
28 of two hundred dollars (\$200), specifically including, but not limited to,
29 superintendents, fiscal officers and bookkeepers; and

30 (3) "Fraudulent act" means an act, involving fraud, or breach of
31 fiduciary trust, which is punishable under the criminal code in the
32 jurisdiction within which the act occurred.

33 (b)(1)(A) Upon making application for employment in a position as a
34 fiscal officer of a school district, the board of directors of a school
35 district shall require the employment applicant to authorize release to the
36 Department of Education the results of statewide and nationwide criminal



1 records checks by the bureau.

2 (B) Unless the employing school district's board of
3 directors has taken action to pay for the cost of criminal background checks
4 required by this section, the employment applicant shall be responsible to
5 the Department of Arkansas State Police for the payment of any fee associated
6 with the criminal records check.

7 (2)(A) The criminal background check shall conform to the
8 applicable federal standards and include the taking of the employment
9 applicant's or current fiscal employed officer's fingerprints.

10 (B) At the conclusion of the criminal records check
11 required by this section, the Bureau of Identification and Information shall
12 promptly destroy the fingerprint card of the affected employment applicant or
13 fiscal officer.

14 (3)(A) Any information received by the Department of Education
15 from the Bureau of Identification and Information pursuant to this section
16 shall not be available for examination except by the affected employment
17 applicant or fiscal officer or his or her duly authorized representative, and
18 no record, file, or document shall be removed from the custody of the
19 Department of Education.

20 (B) Any information made available to the affected
21 employment applicant or fiscal officer shall be information pertaining to
22 that applicant only.

23 (C) Rights of privilege and confidentiality established
24 under this section shall not extend to any document created for purposes
25 other than the background check.

26 (4) The Department of Education shall promptly inform the board
27 of directors of the local school district whether or not the affected
28 employment applicant is eligible for employment as provided in this
29 subsection (b).

30 (c)(1) No person shall be eligible for employment as a fiscal officer
31 by a local school district if the results of the criminal records check
32 released to the Department of Education by the applicant reveals that the
33 applicant has pleaded guilty or nolo contendere to, or has been found guilty
34 of a fraudulent act, only after an opportunity for a hearing before the state
35 board upon reasonable notice in writing.

36 (2) However, the board of directors of a local school district

1 is authorized to offer provisional employment to the affected applicant
 2 pending receipt of eligibility information from the Department of Education.

3 (d)(1) The superintendent of each school district shall report to the
 4 State Board of Education the name of any fiscal officer who is currently
 5 employed or was employed during the two (2) previous school years by the
 6 local school district who has pleaded guilty or nolo contendere to, or has
 7 been found guilty of a fraudulent act.

8 (2) A superintendent who knowingly fails to report information
 9 as required by this subsection may be subject to sanctions imposed by the
 10 state board.

11 (e) A prosecuting attorney prosecuting a case in which a school
 12 employee has pleaded guilty or nolo contendere to, or has been found guilty
 13 of a fraudulent act shall report the name of the employee and the nature of
 14 the crime to the school district in which the person is employed and the
 15 state board.

16 (f) A fiscal officer that pleads guilty or nolo contendere to, or has
 17 been found guilty of a fraudulent act shall be dismissed from employment with
 18 the school district, but only after an opportunity for a hearing before the
 19 state board upon reasonable notice in writing.

20 (g)(1) The State Board of Education shall be entitled to consider:

21 (A) The age of the fiscal officer at the time the criminal
 22 act occurred;

23 (B) The length of time since the conviction;

24 (C) Whether the fiscal officer has pleaded guilty, nolo
 25 contendere, or has been found guilty of to any other criminal violation since
 26 the original conviction;

27 (D) Whether the original conviction was expunged or
 28 pardoned; and

29 (E) Any other relevant facts.

30 (2) The state board after conducting a hearing and issuing a
 31 decision in writing, may determine not to prevent the employment or not to
 32 require the termination of employment of the fiscal officer as required in
 33 subsection (c) and (f) of this section.

34 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 35 General Assembly that fiscal integrity and the protection of the public funds
 36 is an important responsibility of government, that funds of some school

1 districts have been misappropriated by employees because of the lack of
2 requirements for background checks for fraudulent or dishonest acts, that
3 corrective action must be taken to prevent further loses in funds and in
4 public trust. Therefore, an emergency is declared to exist and this act
5 being immediately necessary for the preservation of the public peace, health,
6 and safety shall become effective on:

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

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

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

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14 */s/ Walters, et al*
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