

.As Engrossed: 3/15/91 3/22/91

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

A BILL ACT 966 OF 1991
HOUSE BILL 2100

For An Act To Be Entitled

8 "AN ACT TO CLARIFY THE LAWS OF THIS STATE CONCERNING
9 CONSOLIDATION OR ANNEXATION OF SCHOOL DISTRICTS OR SCHOOL
10 DISTRICT TERRITORY; TO CLARIFY LAWS CONCERNING FORMATION
11 AND DEBT OBLIGATIONS FOLLOWING CONSOLIDATION OR
12 ANNEXATION; AND FOR OTHER PURPOSES."

13

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

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16 SECTION 1. (a) No county board of education shall order any annexation
17 or consolidation under this act or any other act or combination under any act,
18 which hampers, delays or in any manner negatively affects the efforts of the
19 State of Arkansas to assist a district or districts in this state in the
20 desegregation of the public schools of this state.

21 (b) Prior to the entry of any order hereunder, the county board of
22 education shall seek an advisory opinion from the Attorney General of the
23 State of Arkansas concerning the impact of the proposed annexation or
24 consolidation on the effort of the state to assist a district or districts in
25 desegregation of the public schools of this state.

26 (c) Any order of annexation or consolidation or combination which
27 violates the provisions of this section shall be null and void.
28 Notwithstanding other provisions of state law granting immunity from suit or
29 liability, members of a county board of education which fail to comply with
30 the requirements of this section shall be subject to personal liability for
31 such action.

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33 SECTION 2. As used in this act, unless the context otherwise requires:

34 (1) "Affected district" means a school district which gains or loses
35 territory or pupils as a result of annexation or consolidation.

36 (2) "Annexation" means the joining of a school district or territory of

1 a school district with a receiving district.

2 (3) "Consolidation" means the joining of two (2) or more school
3 districts or territories from two (2) or more school districts to create a new
4 single school district.

5 (4) "Controlling county board" or "controlling county board of
6 education" means the county board of education of the county in which the
7 *district is administered*.

8 (5) "Receiving district" means the school district or districts which
9 receives territory or pupils, or both, under an annexation.

10 (6) "Resulting district" means the school district created under the
11 annexation or consolidation.

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13 SECTION 3. (a) Annexation of a school district may begin under the
14 following conditions:

15 (1) Upon petition signed by a majority of the qualified electors
16 of the district;

17 (2) *Upon a vote in an election on the question by a majority of*
18 *those voting in the election; or*

19 (3) Upon resolution adopted by the district board of directors
20 that the district no longer meets or cannot continue to meet the Minimum
21 Standards For Accreditation, or their successor.

22 (b) Consolidation of a school district may begin under the following
23 conditions:

24 (1) Upon petition signed by a majority of the qualified electors
25 of the resulting district;

26 (2) *Upon a vote in an election on the question by a majority of*
27 *those voting in each district; or*

28 (3) *Upon resolution adopted by the board of directors of each*
29 *school district to the county board to seek an election on consolidation.*

30 (c) Consent to annexation of a school district by the receiving
31 district shall be evidenced by:

32 (1) Resolution adopted by the receiving district board of
33 directors;

34 (2) A petition signed by a majority of the qualified electors of
35 the receiving district; or

36 (3) *Vote in an election on the question by a majority of those*

1 voting in the election.

2 (d)(1) Except as provided in (2) below, the controlling county board of
3 education shall order an annexation upon consent of the receiving district.

4 (2)(A) If annexation begins under (a)(3) above, the controlling
5 county board of education shall publish notice of a public hearing on the
6 petition.

7 (B) The public hearing shall occur no sooner than twenty
8 (20) days and no later than thirty (30) days following receipt of the
9 petition.

10 (C) The date, time, place and purpose of the public hearing
11 shall be clearly stated in a newspaper of general circulation in the affected
12 districts once a week for two (2) consecutive weeks.

13 (D) Following the public hearing, upon a finding that the
14 annexation would be in the best interests of the students in the district, the
15 controlling county board of education may order the annexation of the district
16 with the receiving district.

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18 SECTION 4. (a) An election on the question of annexation or
19 consolidation shall be held at a special election called by the controlling
20 county board of education, or, if the petition is received prior to sixty (60)
21 days before the annual school election, may appear on the ballot of the annual
22 school election of the district.

23 (b) Upon receipt of a resolution by the district board of directors for
24 annexation or consolidation of the school district, or upon petition of at
25 least ten percent (10%) of the qualified electors of the district, the
26 controlling county board of education shall call a special election on the
27 question of annexation or consolidation.

28 (c) All petitions shall be filed with the county clerk of the county in
29 which the largest portion of the resulting district shall lie, who shall,
30 within fourteen (14) days of receipt, certify the signatures on the petition
31 and notify the county board of education.

32 (d) Upon receipt of the certified petition, the controlling county
33 board of education shall set a date for the election and file notice of such
34 election with the county clerk, and shall publish notice of same, clearly
35 stating the date and purpose, once a week for three (3) weeks, the last date

1 not more than five (5) days prior to the election, in a newspaper having
 2 general circulation in the resulting district.

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4 SECTION 5. (a) Unless an agreement is reached to the contrary, the
 5 effective date of the annexation or consolidation shall be the July 1
 6 following the order of the controlling county board directing the annexation
 7 or the consolidation.

8 (b) The boards of directors of the affected districts may enter into an
 9 agreement, executed by the president and secretary of each district,
 10 prescribing the date of the annexation to the receiving district or the
 11 formation of the new district. Such agreement may contain the number of
 12 members of the board of directors of the resulting district and prescribe the
 13 number of directors of the district who shall reside in territory contained in
 14 the affected districts. An executed copy of the agreement shall be filed with
 15 the county clerk of each county which contains territory or a portion of the
 16 territory of each affected school district.

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18 SECTION 6. (a) Unless the boards of directors agree otherwise, the
 19 members of the board of directors of the affected districts shall continue to
 20 serve as and constitute the board of directors of the resulting district until
 21 the next regular school election.

22 (b) Unless the boards of directors agree otherwise, the board of
 23 directors of the resulting district shall be composed of nine (9) members
 24 following annexation or consolidation and the term of a member of the board of
 25 directors shall not exceed five (5) years. The boards, by agreement may
 26 establish a board of directors composed of five (5) or seven (7) members. The
 27 establishment of a board of directors with an even number of members following
 28 annexation or consolidation is hereby prohibited.

29 (c) *Unless an agreement is reached between the boards of directors of*
 30 *the affected districts, the board of directors of the resulting district shall*
 31 *be elected from single member zones of substantially equal population based*
 32 *upon the most recent census information and from which racial minorities may*
 33 *be represented on the board in proportions reflected in the district as a*
 34 *whole. Any agreement between the boards of directors of the affected*
 35 *districts, regarding the board of directors of the resulting districts must*

1 *provide for the eventual election of board members by zones within a*
2 *reasonable time.*

3 (d) At the first meeting of the board, the members shall determine
4 their terms by lot so that no more than two (2) members terms expire during
5 any one (1) year.

6 (e) Any vacancy on the board shall be filled in the manner provided by
7 law.

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9 SECTION 7. (a) Any resulting district created under this section shall
10 succeed to the property of the district dissolved, shall become liable for the
11 contract and debts of such district and may sue and be sued therefor.

12 (b) Where territory less than the entire district is annexed or
13 consolidated to a district, the receiving district shall take the property of
14 the district from which the territory was taken, as the county board of
15 education shall deem proper, and shall be liable for that part of all
16 indebtedness of the district from which the territory was taken as shall be
17 assigned to them by the county board of education unless otherwise approved by
18 majority vote of the affected school district boards of directors.

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20 SECTION 8. All provisions of this act of a general and permanent nature
21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
22 Revision Commission shall incorporate the same in the Code.

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24 SECTION 9. If any provision of this act or the application thereof to
25 any person or circumstance is held invalid, such invalidity shall not affect
26 other provisions or applications of the act which can be given effect without
27 the invalid provision or application, and to this end the provisions of this
28 act are declared to be severable.

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30 SECTION 10. All laws and parts of laws in conflict with this act are
31 hereby repealed.

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33 SECTION 11. *EMERGENCY. It is hereby found and determined by the*
34 *Seventy-Eighth General Assembly that confusion has arisen concerning the laws*
35 *on consolidation and annexation of school districts; that current laws are*

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1 difficult to implement due to the uncertainty of which law should be applied;
2 that this act will assist school districts in this state by providing a clear
3 procedure for seeking and implementing consolidation or annexation; that the
4 failure to make this act effective immediately might prevent a school district
5 from seeking consolidation or annexation until the school election in 1992.
6 Therefore, an emergency is hereby declared to exist and this act being
7 necessary for the immediate preservation of the public peace, health and
8 safety shall be in full force and effect upon its passage and approval.

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/s/ E. Thicksten

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APPROVED: 3/29/91

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