

Stricken language would be deleted from and underlined language would be added to present law.
Act 90 of the 2nd Extraordinary Session

1 State of Arkansas *As Engrossed: H12/17/03 H12/26/03 H1/5/04 S1/16/04 S2/4/04 S2/4/04* Call Item 4

2 84th General Assembly

A Bill

3 Second Extraordinary Session, 2003

HOUSE BILL 1009

4

5 By: Representative Pickett

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For An Act To Be Entitled

9 AN ACT TO CREATE THE DIVISION OF PUBLIC SCHOOL
10 ACCOUNTABILITY AND THE DIVISION OF PUBLIC SCHOOL
11 ACADEMIC FACILITIES; TO REQUIRE THE REALIGNMENT
12 OF THE DEPARTMENT OF EDUCATION; TO CHANGE THE
13 TERM OF OFFICE OF MEMBERS OF THE STATE BOARD OF
14 EDUCATION; AND FOR OTHER PURPOSES.

15

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Subtitle

17 AN ACT TO CREATE THE DIVISION OF PUBLIC
18 SCHOOL ACCOUNTABILITY AND THE DIVISION
19 OF PUBLIC SCHOOL ACADEMIC FACILITIES; TO
20 REQUIRE THE REALIGNMENT OF THE
21 DEPARTMENT OF EDUCATION.

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

25

26 SECTION 1. Creation of the Division of Public School Accountability.

27 (a)(1) To enhance the public's access to public school performance
28 indicators and to better measure the benefits of the increasing public
29 investment in Arkansas' schools, the General Assembly finds that a Division
30 of Public School Accountability shall be established under the direct
31 operational control of the State Board of Education.

32

33 (2) The foremost obligation of the division shall be to
34 administer all monitoring and compliance activities dealing with academic and
35 fiscal accountability for each school or school district and report academic
36 progress.

36

(b) There is created a Division of Public School Accountability, which



1 shall begin operation within one hundred twenty (120) calendar days following
2 the effective date of this act.

3 (c) The division shall be under the supervision of the state board.

4 (d)(1) The state board shall select an individual to serve as the
5 Director of the Division of Public School Accountability and the director
6 shall serve at the pleasure of the state board.

7 (2) The person selected as the director shall:

8 (A) Be a person of good moral character and qualified
9 technically and by experience to direct the work of the Division of
10 Accountability;

11 (B) Hold a master's degree or a higher level degree from
12 an accredited institution; and

13 (C) Have ten (10) years of experience in an
14 administrative, supervisory, or management position.

15 (3) No person who is related within the fourth degree of
16 consanguinity or affinity to any member of the board shall be eligible to
17 serve as the director.

18 (e) The director, with guidance and approval from the state board,
19 shall be responsible for hiring all employees of the division.

20 (f) The division shall have the following responsibilities:

21 (1) Monitor schools for compliance with state and federal
22 regulations;

23 (2) Monitor schools for compliance with legislative acts and
24 court-ordered mandates;

25 (3) Monitor schools for compliance with all standards of
26 learning and accreditation as established by the state board;

27 (4) Monitor schools for compliance with all rules and
28 regulations as established by the state board;

29 (5) Coordinate the analysis, dissemination, and reporting of all
30 criterion and norm-referenced testing information;

31 (6) Coordinate the implementation and administration of
32 longitudinal tracking and trend data collection as established by the state
33 board for the purposes of improving student and school performance, ensuring
34 mastery of the curriculum, and providing comparisons between students within
35 Arkansas and with students in other states;

36 (7) Coordinate the implementation and administration of value-

1 added assessments as established by the state board;

2 (8) Coordinate the implementation and administration of the
3 annual school performance reports as established by the state board;

4 (9) Administer all monitoring and compliance activities dealing
5 with academic and fiscal accountability as established by the state board;
6 and

7 (10) Work with program approval and certification sections of
8 the Department of Education, the Department of Higher Education, the
9 Department of Workforce Education, and the individual colleges to provide
10 information that will contribute to reasonable, equitable, and excellent
11 preparation of certified personnel in the institutions, both public and
12 private, of higher education.

13 (g)(1) The division shall provide annual reports of school performance
14 or compliance to the Joint Interim Oversight Committee on Education Reform,
15 the House Interim Committee on Education, and the Senate Interim Committee on
16 Education.

17 (2) A preliminary report shall be provided by January 1 of each
18 year and a follow-up report that includes information regarding on-site
19 visits shall be filed by June 1 of each year.

20 (h)(1) There is created the Arkansas Public Schools Accountability
21 Advisory Council that shall begin operation within one hundred twenty (120)
22 calendar days following the effective date of this act. The membership of
23 the council shall include:

24 (A) One (1) member designated as chair to be selected by
25 the Governor, who shall be a representative of Arkansas businesses;

26 (B) One (1) member selected by the Governor, who shall be
27 a representative of an educator's union in the State of Arkansas;

28 (C) One (1) member selected by the Governor, who shall be
29 a parent or guardian of at least one (1) student currently enrolled in grades
30 kindergarten through twelve (K-12) in a public school in the State of
31 Arkansas;

32 (D) One (1) member selected by the Speaker of the House of
33 Representatives who shall be a representative of higher education;

34 (E) One (1) member appointed by the President Pro Tempore
35 of the Senate who shall be a representative of Arkansas businesses;

36 (F) One (1) member appointed by the Chair of the Senate

1 Committee on Education who is currently employed as a teacher in the grades
2 kindergarten through twelve (K-12) public school system in the State of
3 Arkansas; and

4 (G) One (1) member appointed by the Chair of the House
5 Committee on Education who shall be a representative of the administration of
6 a public school in the State of Arkansas.

7 (2) The council shall provide advice and consultation services
8 for the director.

9 (3) The council may be convened by the chair of the council, by
10 the chair of the state board, or by the director.

11 (4) Members shall not receive compensation for service on the
12 council but may receive expense reimbursement as provided in Arkansas Code §
13 25-16-902.

14
15 SECTION 2. Creation of the Division of Public School Academic
16 Facilities.

17 (a) In order to ensure that substantially equal access to adequate
18 educational facilities and educational equipment is provided for all public
19 school students in Arkansas, the General Assembly finds that a Division of
20 Public School Academic Facilities should be established under the direct
21 supervision of the State Board of Education.

22 (b) There is created a Division of Public School Academic Facilities
23 which shall begin operation within one hundred twenty (120) calendar days
24 following the effective date of this act.

25 (c) The Division of Public School Academic Facilities shall be under
26 the supervision of the state board.

27 (d)(1) The state board shall select an individual to serve as the
28 Director of the Division of Public School Academic Facilities and the
29 Director of the Division of Public School Academic Facilities shall serve at
30 the pleasure of the state board.

31 (2) The Director of the Division of Public School Academic
32 Facilities shall be an architect that is licensed by the State of Arkansas.

33 (3) No person who is related within the fourth degree of
34 consanguinity or affinity to any member of the board shall be eligible to
35 serve as the director.

36 (e) The Director of the Division of Public School Academic Facilities,

1 with guidance and approval from the state board, shall be responsible for
2 hiring all employees of the division.

3 (f) The Executive Chief Information Officer shall assign one (1)
4 individual from the staff of the Office of Information Technology to serve as
5 a technology liaison to the Division of Public School Academic Facilities.

6 (g) The Director of the Arkansas Building Authority shall assign one
7 (1) individual from the staff of the Arkansas Building Authority to serve as
8 a physical plant liaison to the Director of the Public School Academic
9 Facilities.

10 (h) The Division of Public School Academic Facilities shall:

11 (1) Provide information or assistance to the Joint Committee on
12 Educational Facilities created by Act 1181 of 2003 as requested by the joint
13 committee;

14 (2) Use any recommendation or assessments of the joint committee
15 or the General Assembly as a basis for establishing the policies and
16 procedures of the Division of Public School Academic Facilities; and

17 (3) Provide assistance, as requested, to the Joint Committee on
18 Educational Facilities in conducting an assessment of all school facilities
19 in the state and continue to update and maintain current assessments of all
20 school facilities after the expiration of the joint committee on December 31,
21 2004.

22 (i)(1) The Director of the Division of Public School Academic
23 Facilities shall create and implement a standardized reporting format and
24 select the method to be utilized by school districts in the preparation and
25 submission of the list to the Division of Public School Academic Facilities.

26 (2) The data gathered from the reports generated by the school
27 districts shall be presented to the state board for compilation into an
28 annual report to the Governor and the House Interim Committee on Education
29 and the Senate Interim Committee on Education on the facility needs in the
30 state.

31 (3) The Division of Public School Academic Facilities shall
32 conduct any reviews, site visits, and other research during the year to
33 assist in preparation of the annual report.

34 (j)(1) The Director of the Division of Public School Academic
35 Facilities shall provide to the Governor and the House Interim Committee on
36 Education and the Senate Interim Committee on Education reports on the status

1 of public school academic facilities including the facility and technology
2 needs and priorities for each category.

3 (2) A preliminary report shall be provided by January 1 each
4 year and a follow-up report that includes information regarding on-site
5 visits shall be filed by June 1 each year.

6 (k)(1)(A) No later than September 30 of each even-numbered year of the
7 biennium, the Division of Public School Academic Facilities shall present to
8 the state board the list of public school facility repairs, improvements, and
9 construction along with technology improvements that the Division of Public
10 School Academic Facilities recommends for the next biennium.

11 (B) Copies of the list shall be provided to the Governor
12 and the House Interim Committee on Education and the Senate Interim Committee
13 on Education.

14 (2) The state board shall prioritize funding for public school
15 facility repairs, improvements, and construction along with technology
16 improvements based on the recommendations of the Division of Public School
17 Academic Facilities.

18 (1) The state board and the Division of Public School Academic
19 Facilities shall develop, by rule and regulation, the process for developing
20 the list of public school facility repairs, improvements, and construction
21 along with technology improvements necessary under this act.

22
23 SECTION 3. REALIGNMENT OF THE DEPARTMENT OF EDUCATION. NOT TO BE
24 INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL,
25 LOCAL, AND TEMPORARY LAW.

26 (a)(1) Following the implementation of this act, the Department of
27 Education shall realign.

28 (2) The purpose of the realignment shall be for the department
29 and the Division of Public School Accountability and the Division of Public
30 School Academic Facilities to maximize their role as the active senior
31 partners with the schools and to prepare to intervene immediately rather than
32 after the school or school district fails.

33 (3)(A) To realign, the department shall form a taskforce
34 consisting of the Director of the Division of Public School Accountability,
35 the Director of the Division of Public School Academic Facilities, key
36 department personnel, school district personnel, teachers, and other

1 stakeholders to conduct a study of the department's and the divisions'
2 delivery system and to make recommendations for the department's realignment.

3 (B) As part of the study, the taskforce shall:

4 (i) Review the functions, and responsibilities of
5 the department, the Division of Public School Accountability, and the
6 Division of Public School Academic Facilities to align the personnel
7 according to these functions and responsibilities to ensure each employee is
8 qualified and capable of performing his or her duties according to the
9 functions and responsibilities as defined by the taskforce; and

10 (ii)(a) Conduct a comprehensive review of the
11 salaries of individuals necessary to fulfill the department's functions as
12 defined by the taskforce, responsibilities, and constitutional mission of the
13 state.

14 (b) This study shall include a review of
15 equity adjustments necessary to recognize differences in responsibility,
16 performance, or seniority.

17 (C) Qualifications and salary levels of the department's
18 staff shall be comparable to those of similar employees in school districts
19 or in other state education agencies.

20 (b) Following the work of the taskforce under this section, the
21 department shall present proposed changes in staff grades and salaries to the
22 Joint Budget Committee at the earliest opportunity for the purpose of
23 preparing suggested legislation to be approved by the General Assembly.

24 (c) The Director of the Department of Education may transfer any
25 unclassified position to the Division of Public School Accountability or the
26 Division of Public School Academic Facilities if the director of the division
27 agrees that the position is an appropriate position to be in the division and
28 approves the transfer.

29 (d) The restructuring of the department shall be conducted in a manner
30 that will provide sufficient personnel within the department to provide
31 administrative and technological support to the Division of Public School
32 Accountability and the Division of Public School Academic Facilities at a
33 level that is sufficient for the divisions to carry out the duties set forth
34 in this act.

35 (e) In the restructuring of the department the director may require
36 the department, the Division of Public School Academic Facilities, and the

1 Division of Public School Accountability to coordinate and share certain
2 administrative, custodial, legal, internal finance, and other necessary
3 personnel to effectuate the daily operations of those divisions and the
4 department.

5
6 SECTION 4. Arkansas Code § 6-11-101(b), concerning the term of office
7 of State Board of Education members, is amended as follows:

8 (b)(1) The term of office of a member of the board, appointed prior to
9 the effective date of subdivision (b)(2)(A) of this section, shall be six (6)
10 years.

11 (2)(A) The term of office of the first member appointed after
12 the effective date of this subdivision (b)(2)(A) shall be a single term of
13 six (6) years and all other appointments after the effective date of this
14 subdivision (b)(2)(A) shall be for a single term of seven (7) years.

15 (B)(i) Any member appointed to the state board to fill a
16 vacancy for an uncompleted term with fewer than three (3) years remaining on
17 the original term may be reappointed to an additional term of seven (7)
18 years.

19 (ii) No member serving three (3) or more years on
20 the state board may be reappointed.

21 (3) No current or new member shall be allowed to resign in order
22 to be appointed to a new term on the board.

23 (4) Nothing in this section shall be construed to change the
24 terms of any member of the state board that was appointed prior to the
25 effective date of this subdivision (b)(2)(A) of this section.

26 **EMERGENCY CLAUSE FAILED TO PASS**

27 ~~SECTION 5. EMERGENCY CLAUSE. It is found and determined by the~~
28 ~~General Assembly of the State of Arkansas that the Arkansas Supreme Court in~~
29 ~~Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), declared~~
30 ~~the now existing system of education to be unconstitutional because it is~~
31 ~~both inequitable and inadequate; the Arkansas Supreme Court set forth the~~
32 ~~test for a constitutional system to be a system in which the state has an~~
33 ~~“absolute duty” to provide an “equal opportunity to an adequate education”;~~
34 ~~and that this act is immediately necessary because the Arkansas Supreme Court~~
35 ~~instructed the General Assembly to define and provide what is necessary to~~
36 ~~provide an adequate and equitable education for the children of Arkansas.~~

1 ~~Therefore, an emergency is declared to exist and this act being immediately~~
 2 ~~necessary for the preservation of the public peace, health, and safety shall~~
 3 ~~become effective on:~~
 4 ~~_____ (1) The date of its approval by the Governor;~~
 5 ~~_____ (2) If the bill is neither approved nor vetoed by the Governor,~~
 6 ~~the expiration of the period of time during which the Governor may veto the~~
 7 ~~bill; or~~
 8 ~~_____ (3) If the bill is vetoed by the Governor and the veto is~~
 9 ~~overridden, the date the last house overrides the veto.~~

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/s/ Pickett

APPROVED: 2/10/2004