

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
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S3/19/01, S4/3/01 S4/5/01

A Bill

Act 1673 of 2001
HOUSE BILL 1882

5 By: Representatives Bond, Cleveland, Dees, D. Elliott, Fite, Green, Milum, Minton, Rackley, Teague
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For An Act To Be Entitled

9 AN ACT TO CREATE A PROCEDURE FOR THE CREATION OF
10 A SCHOOL DISTRICT BY DETACHMENT; AND FOR OTHER
11 PURPOSES.
12

Subtitle

14 AN ACT TO CREATE A PROCEDURE FOR THE
15 CREATION OF A SCHOOL DISTRICT BY
16 DETACHMENT.
17
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 6, Chapter 13, is amended by adding an
22 additional subchapter to read as follows:

23 6-13-1401. Creation of District by Detaching Territory from Existing
24 District.

25 (a)(1) It is the intent of the General Assembly, by this subchapter,
26 to provide opportunities for children of this state by allowing local
27 community members the opportunity to establish and maintain public schools in
28 a manner that optimizes educational resources within a community.

29 (2) The General Assembly finds that the educational needs of the
30 students of this state shall be best served by not allowing creation of a
31 district under this subchapter with fewer than four thousand (4000) students,
32 thus ensuring adequate educational opportunities for students.

33 (b) A new school district may be created by detaching territory from:

34 (1) An existing school district; or

35 (2) Two or more existing contiguous school districts.

36 (c) A school district created under this subchapter shall have all the

1 rights, privileges, and responsibilities of other public school districts.

3 6-13-1402. Minimum Area and Attendance Requirements.

4 (a) A new district may not be created in an area with less than four
5 thousand (4,000) students in average daily membership.

6 (b) An existing district shall not be reduced, by means of detachment,
7 to an area with less than four thousand (4,000) students in average daily
8 membership.

9 (c) A new district to be created by detachment must only be made up of
10 students from one (1) existing district.

11 (d) This act shall apply only to school districts that, in the school
12 year immediately preceding the detachment, had an average daily membership of
13 at least fifteen thousand (15,000) students but not more than twenty thousand
14 (20,000) students.

16 6-13-1403. Initiation of Detachment.

17 Creation of a new district by detachment shall be initiated by:

18 (1) Resolution of the board of directors of each district from which
19 territory is to be detached; or

20 (2) By a petition that is presented to the State Board of Education
21 pursuant to the provisions of this subchapter.

23 6-13-1404. Election.

24 (a)(1) Not later than the thirtieth (30th) day after the date the State
25 Board of Education receives a *petition or resolution* under this subchapter,
26 the State Board of Education shall hold a hearing on the validity of the
27 *petition or resolution*.

28 (2) To be valid, a *petition or resolution* shall:

29 (A) State the purpose for which the *petition or resolution*
30 is being submitted;

31 (B) Contain a plat or map of the proposed new district;

32 (C) Contain an independent feasibility study *stating:*

33 (i) Cost of operation of the new district and the
34 ability to operate the new district taking into consideration the tax base,
35 debt service, and division of assets to the new district;

36 (ii) Contain a list of the public school assets to

1 be transferred from the existing district to the new district;

2 (iii) Size of the new district; and

3 (iv) The effect of detachment on court ordered
4 desegregation; and

5 (D) Be signed by at least ten percent (10%) of the
6 registered voters of the area proposed for detachment.

7 (b)(1) If the State Board of Education determines the petition or
8 resolution is valid and the petition or resolution does not conflict with
9 subdivision (b)(2) of this section, the State Board of Education may, after
10 complying with subdivision (b)(2) of this subsection order an election on the
11 proposition of detachment to be held at the next annual school election or
12 general election.

13 (2)(A) The State Board of Education shall not order any creation
14 of a new district by detachment under this subchapter or any other act or
15 combination of any acts which hampers, delays, or in any manner negatively
16 affects desegregation efforts of a school district or districts in this
17 state.

18 (B) Prior to the entry of any order for election on the
19 question of detachment, the State Board of Education shall seek an advisory
20 opinion from the Attorney General concerning the impact of the proposed
21 detachment and creation of a new school district on the impact of the
22 proposed detachment and creation of a new school district on the effort of
23 the state to assist the affected school district or districts in the
24 desegregation of the public schools of this state.

25 (3) The order for election on the proposition of detachment
26 shall:

27 (A) Contain a plat or map of the proposed new district;
28 and

29 (B) Comply with all requirements and procedures set forth
30 in § 6-14-101 through 6-14-122 that do not conflict with the provisions of
31 this subchapter.

32 (c)(1)(A) The State Board of Education shall certify two (2) copies of
33 the detachment order and convey one (1) copy to the county clerk and one (1)
34 copy to the county election commission at least sixty (60) days prior to the
35 date the commission sets for election on the question of detachment.

36 (B)(i) No later than forty-five (45) days prior to the

1 election, the county clerk of each county affected shall identify all persons
2 who reside within the area proposed to be detached, and the county clerk
3 shall *determine* the names and addresses of all qualified electors residing
4 within that area.

5 (ii) The failure to identify all persons residing
6 within the area proposed to be detached or the failure to determine the names
7 and addresses of all qualified electors residing within that area shall not
8 invalidate or otherwise affect the results of the election.

9 (C) All of the qualified electors residing within the
10 territory to be detached shall be entitled to vote in the election.

11 (D) The petitioners shall give notice of the election by
12 publication of at least one (1) insertion in a newspaper having general
13 circulation in each school district from which territory is being detached.

14 (2) The county clerk shall prepare a list by precinct of all
15 those qualified electors residing within the area to be detached who are
16 qualified to vote in that precinct and furnish that list to the election
17 officials at the time the ballot boxes and voting machines are delivered.

18 (A) If the county clerk or the county election commission
19 shall fail to perform any duties required, then any interested party may
20 apply for a writ of mandamus to require the performance of the duties.

21 (B) The failure of the county clerk or the county election
22 commission to perform the duties shall not void the detachment election
23 unless a court finds that the failure to perform the duties substantially
24 prejudiced an interested party.

25 (d)(1) The ballot shall be printed to permit voting for or against the
26 proposition, in a manner similar to the following: "*Creation of a new school*
27 *district by detachment of property and territory that includes the following*
28 *property and territory from the _____ School District:*
29 _____."

30 (2) The ballot description of the *property and territory* to be
31 detached shall be sufficient to give general notice of the territory
32 affected.

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34 6-13-1405. Creation of District.

35 (a) If all the requirements of this subchapter are met and a majority
36 of the votes are cast for the proposition, the State Board of Education shall

1 order the creation of the new school district.

2 (b)(1) At the time the order creating the district is made, the State
3 Board of Education shall appoint a board of seven (7) members for the new
4 district to serve until the next regular election of members, when a board of
5 directors shall be elected in compliance with Arkansas law.

6 (2) Following the entry of the order creating the new district
7 and the appointment of a board of directors for the new district, but prior
8 to the transfer of any assets, territory, property, liabilities, duties or
9 responsibilities, any new district created by detachment from an existing
10 district that is a party to any court ordered desegregation plan shall
11 petition the court having jurisdiction in the desegregation matter and obtain
12 any and all court orders or other relief necessary to insure that the
13 detachment will not cause the state or any affected school district to be in
14 violation of any orders of the court or any consent consent orders or decrees
15 entered into by the parties with regard to the desegregation plan.

16 (c)(1) Any new district created under this subchapter district shall
17 take the property of the district from which the territory was taken, as the
18 State Board of Education shall deem proper, and shall be liable for that part
19 of all indebtedness of the district from which the territory was taken as
20 shall be assigned to them by the State Board of Education.

21 (d) The millage rate of the electors of the detached territory shall
22 remain the same until an election may be held to change the rate of taxation
23 for the detached area.

24 (e) The State Board of Education shall have the following duties
25 regarding creation of a district by detachment:

26 (1) To form local school districts, change boundary lines of
27 school districts, create new school districts, and perform all other
28 functions regarding changes in school districts in accordance with the law;

29 (2) To transfer funds and attach territory which is in one
30 school district to other school districts as may seem best for the
31 educational welfare of the children; and

32 (3) To enact rules and regulations regarding the creation of
33 school districts by detachment under this subchapter.

34 /s/ Bond

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36 APPROVED: 4/16/2001