

1 State of Arkansas *As Engrossed: S3/26/13 H4/6/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 836

4

5 By: Senator J. Key

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For An Act To Be Entitled

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AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS

9

CODE CONCERNING PUBLIC EDUCATION; AND FOR OTHER

10

PURPOSES.

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12

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Subtitle

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TO ESTABLISH THE OPEN-ENROLLMENT PUBLIC

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CHARTER SCHOOL FACILITIES LOAN FUND.

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

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SECTION 1. Arkansas Code Title 6, Chapter 23, is amended to add an additional subchapter to read as follows:

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SUBCHAPTER 7 – The Open-Enrollment Public Charter School Facilities Loan Fund.

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6-23-701. The Open-Enrollment Public Charter School Facilities Loan Fund - Established.

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Beginning with the 2013-2014 school year, the Open-Enrollment Public Charter School Facilities Loan Fund is established under § 19-5-1249 to provide funding for safe and secure facilities in which to conduct educational services and administrative activities for open-enrollment public charter schools.

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6-23-702. Funding source - Procedures.

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(a) The Open-Enrollment Public Charter School Facilities Loan Fund shall be administered and operated by the Division of Public School Academic

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1 Facilities and Transportation for the sole purpose of facility assistance for
2 eligible open-enrollment public charter schools.

3 (b) The fund may be funded by:

4 (1) General revenues received by the division for the purposes
5 of starting, augmenting, or replenishing the fund;

6 (2) Grants received by the division for the express purpose of
7 providing open-enrollment public charter school facilities assistance,
8 including grants from the United States Department of Education; and

9 (3) Donations or bequests from organizations or individuals
10 received by the division that are designated for the fund.

11 (c) The division shall:

12 (1) Use rules and forms adopted by the Commission for Arkansas
13 Public School Academic Facilities and Transportation for the administration
14 and operation of the loan program, including without limitation a loan
15 application form that addresses:

16 (A) A specific description of the project or facility for
17 which funding is needed;

18 (B) A description of the project or facility for which
19 funding is needed, including the physical location of the project or
20 facility;

21 (C) The anticipated cost of acquisition, construction,
22 lease, operation, addition, improvement, or repair of the open-enrollment
23 public charter school facility;

24 (D) An explanation for the open-enrollment public charter
25 school's inability to provide sufficient funding for the project or facility
26 through other resources;

27 (E) A description of the funds that the open-enrollment
28 public charter school intends to use to collateralize and pledge to secure
29 the loan;

30 (F) A repayment period of not to exceed ten (10) years
31 from the date the loan is approved;

32 (G) A resolution from the open-enrollment public charter
33 school's governing board stating the necessity of the requested assistance;
34 and

35 (H) The repayment terms and conditions of the loan with
36 the repayment interest rate not to exceed one percent (1%) of the interest

1 rate earned by money in the fund; and

2 (2) Develop a prioritization system to fund projects and
3 facilities if sufficient funding is not available to fully fund all eligible
4 requests.

5 (d) The division shall dedicate sufficient personnel and resources to
6 administer the loan program in a timely and responsive manner.

7 (e) All earnings received on the investment of assets held in the
8 Open-Enrollment Public Charter School Facilities Loan Fund shall be used in
9 the following order of priority for the following purposes:

10 (1) To pay the operating expenses of the Open-Enrollment Public
11 Charter School Facilities Loan Fund administered by the division; and

12 (2) To fund loans under § 6-23-703 or as permitted by law.

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14 6-23-703. Purpose of loan.

15 An open-enrollment public charter school may borrow and the Division of
16 Public School Academic Facilities and Transportation may lend money from the
17 Open-Enrollment Public Charter School Facilities Loan Fund for:

18 (1) The construction, lease, or purchase of an academic
19 facility;

20 (2) The repair, improvement, or addition to an academic
21 facility; or

22 (3) Credit enhancement for financing academic facility projects
23 under subdivisions (1) or (2) of this section.

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25 6-23-704. Loan application.

26 (a) The board of directors of an open-enrollment public charter school
27 wanting to borrow money from the Open-Enrollment Public Charter School
28 Facilities Loan Fund, acting through its chair or president and secretary,
29 after approval of such action by full majority approval of the board of
30 directors, shall file a loan application with the Division of Public School
31 Academic Facilities and Transportation.

32 (b) The loan application shall be on a form promulgated by the
33 Commission for Arkansas Public School Academic Facilities and Transportation,
34 and include without limitation:

35 (1) The name, location, and Local Education Agency number of the
36 open-enrollment public charter school;

1 (2) The date and location of the board of directors meeting at
2 which action was taken to make a formal application for a loan;

3 (3) The purpose for which the loan will be used;

4 (4) The estimated amount of the proposed loan, including any
5 supporting documentation on cost estimates;

6 (5) Complete financial information, including all current debt
7 obligations;

8 (6) The method proposed to repay the loan; and

9 (7) Any additional information requested by the division.

10 (c) An application shall be executed in duplicate with the original to
11 be filed with the division and the copy to be retained in the files of the
12 open-enrollment public charter school.

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14 6-23-705. Loan decision.

15 (a) The Division of Public School Academic Facilities and
16 Transportation shall review and assess the accuracy of the information
17 provided in each loan application within a reasonable time after receiving a
18 loan application.

19 (b)(1) After reviewing and considering the merits of the application,
20 the division may:

21 (A) Approve the loan requested for the full amount;

22 (B) Approve the loan requested for an amount less than
23 requested; or

24 (C) Deny the loan.

25 (2) The division shall notify the open-enrollment public charter
26 school in writing of the decision.

27 (c) An open-enrollment public charter school may apply for and accept
28 a loan from the Open-Enrollment Public Charter School Facilities Loan Fund
29 without prior approval from the Commissioner of Education under § 6-23-
30 401(a)(5).

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32 6-23-706. Rules.

33 (a) The Commission for Arkansas Public School Academic Facilities and
34 Transportation shall promulgate rules necessary to administer the Open-
35 Enrollment Public Charter School Facilities Loan Fund which shall include
36 without limitation a provision for the prioritization of loan applications.

1 (b) This section is not intended to subject a loan applicant to rules
2 similar to those applicable to school districts under the Arkansas Public
3 School Academic Facilities Funding Act, § 6-20-2501 et seq., and the Arkansas
4 Public School Academic Facilities Act, § 6-21-801 et seq.

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6 6-23-707. Failure to remit payment.

7 (a) If an open-enrollment public charter school fails to remit payment
8 for an outstanding loan under the Open-Enrollment Public Charter School
9 Facilities Loan Fund, upon certification of the amount of delinquent funds by
10 the Division of Public School Academic Facilities and Transportation, the
11 amount of delinquent funds including penalties and interest may be deducted
12 from the operating funds designated to the open-enrollment public charter
13 school through the Department of Education and remitted directly by the
14 department to the Open-Enrollment Public Charter School Facilities Loan Fund,
15 if requested by the division.

16 (b) The operating funds from which delinquent funds may be deducted
17 for an open-enrollment public charter school are limited to:

18 (1) State funding distributed under § 6-20-2305, including
19 without limitation state foundation funding and state categorical funding;

20 (2) Federal funding to the extent allowed under federal law; and

21 (3) The net assets of an open-enrollment public charter school
22 deemed property of the state upon revocation or nonrenewal of the charter.

23 (c) The state shall hold a preferred security interest in the amount
24 of the outstanding loan.

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26 SECTION 3. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
27 amended to add an additional section to read as follows:

28 19-5-1249. Open-Enrollment Public Charter School Facilities Loan Fund.

29 (a) There is created on the books of the Treasurer of State, the
30 Auditor of the State, and the Chief Fiscal Officer of the State a
31 miscellaneous fund to be known as the "Open-Enrollment Public Charter School
32 Facilities Loan Fund".

33 (b) The fund shall consist of:

34 (1) General revenues as may be authorized by law;

35 (2) Grants received by the Division of Public School Academic
36 Facilities and Transportation for the purpose of providing open-enrollment

1 public charter school facilities assistance, including grants from the United
2 States Department of Education;

3 (3) Donations or bequests received by the division for the
4 purpose of starting, augmenting, or replenishing the fund;

5 (4) Revenues received from open-enrollment public charter
6 schools for the repayment of a loan granted under the Open-Enrollment Public
7 Charter School Facilities Loan Fund program; and

8 (5) Other revenues as may be provided by law.

9 (c) The fund shall be used for distributing loans to open-enrollment
10 public charter schools for the purposes of the construction, lease, or
11 purchase of an academic facility, the repair, improvement, or addition to an
12 academic facility, and enhancing credit for financing purposes under the
13 Open-Enrollment Public Charter School Facilities Loan Act of 2013 established
14 in § 6-23-701 et seq., and as may be otherwise provided by law.

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16 /s/J. Key

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19 **APPROVED: 04/16/2013**