

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1602

5 By: Representative Johnson
6

For An Act To Be Entitled

8 AN ACT TO MODIFY THE REQUIREMENTS FOR SCHOOL DISTRICT
9 DETACHMENT; TO DECLARE AN EMERGENCY; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13 TO MODIFY THE REQUIREMENTS FOR SCHOOL
14 DISTRICT DETACHMENT; AND TO DECLARE AN
15 EMERGENCY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 6-13-1505 is amended to read as follows:
22 6-13-1505. Creation of school district.

23 (a) If all the requirements of this subchapter are met and a majority
24 of the votes are cast for the proposition, the State Board of Education shall
25 order the creation of the new school district.

26 (b)(1) At the time the order creating the district is made, the state
27 board shall appoint a board of directors of seven (7) members for the new
28 school district to serve until the next regular election of members, when a
29 board of directors shall be elected in compliance with Arkansas law.

30 (2) Following the entry of the order creating the new school
31 district, the new school district shall:

32 (A) Be considered a school district under § 6-13-101 et
33 seq. for all constitutional and statutory purposes, except as limited under
34 this section;

35 (B) Be considered a body corporate and may sue and be sued
36 in the name of the new school district; and



1 (C) After the appointment of a board of directors for the
 2 new school district but ~~prior to~~ before the transfer of any assets,
 3 territory, property, liabilities, duties, or responsibilities, ~~any~~ a new
 4 school district created by detachment from an existing school district that
 5 is a party to any court-ordered desegregation plan shall petition the court
 6 having jurisdiction in the desegregation matter and obtain any and all court
 7 orders or other relief necessary to ensure that the detachment will not cause
 8 the state or any affected school district to be in violation of any orders of
 9 the court or any consent orders or decrees entered into by the parties with
 10 regard to the desegregation plan.

11 (3) Following the entry of the order creating the new school
 12 district, the new school district may:

13 (A) Exercise the power of eminent domain; and

14 (B) Borrow money and issue bonds for allowable purposes
 15 under § 6-20-1201 et seq.;

16 (c)(1)(A) Any A new school district created under this subchapter shall
 17 ~~take~~ be allocated the ~~property assets~~ of the school district from which the
 18 territory was taken, as the state board shall deem proper, ~~and~~ or as agreed
 19 by the original school district and the new school district with the approval
 20 of the state board.

21 (B) The transfer or conveyance of the title of the assets
 22 from the original school district to the new school district shall be
 23 documented through deeds, assignments, or bills of sale as necessary to
 24 produce evidence of the transfer of ownership and the resulting rights and
 25 liabilities.

26 (2)(A) The new school district may be allocated transferred
 27 assets in exchange for payment or may assume liability ~~shall be liable~~ for
 28 that part of ~~all~~ the indebtedness of the original school district ~~from which~~
 29 allocable to the territory was taken within the new school district as agreed
 30 by the original school district and the new school district with the approval
 31 of the state board or as determined, shall be, assigned, or allocated to the
 32 new school district by the state board.

33 (B) In determining the value of the transferred assets or
 34 the amount of the indebtedness for which the new school district will become
 35 responsible, the new school district and the original school district shall
 36 either:

1 (i) Agree upon an amount with the approval of the
2 state board; or

3 (ii) Allow the state board to determine the amount
4 if the new school district and the original school district fail to agree.

5 (3) The allocation or assignment of indebtedness shall be
6 structured in a manner that does not cause the original school district to
7 default under the documents authorizing the indebtedness, and shall not
8 violate any tax covenants contained in the documents authorizing the
9 indebtedness by the original districts.

10 (4) In determining foregoing allocations, all reasonable and
11 fair methods of allocation shall be considered, including without limitation:

12 (A) A third-party appraisal of the real property to be
13 transferred to the new school district;

14 (B) A ratio generated by comparing the number of students
15 currently residing in the boundaries of the new school district to the total
16 number of students in the original school district;

17 (C) A ratio generated by comparing the assessed value of
18 property within the boundaries of the new school district to the assessed
19 value of property within the original school district;

20 (D) A ratio generated by comparing the amount of the
21 outstanding debt of the original school district that was incurred to finance
22 property located within the boundaries of the new school district to the
23 total outstanding debt of the original school district; and

24 (E) Other reasonable and fair methods of allocation.

25 (d)(1) The millage ad valorem tax rate of the electors of the detached
26 territory new school district shall remain the same as that of the original
27 school district until an election may be is held to change the rate of
28 taxation for the detached area in the new school district and a rate of tax
29 is approved, and shall be allocated in the same proportion between
30 maintenance and operation and debt service was allocated by the original
31 school district.

32 (2) The new school district may use and pledge debt service
33 millage to pay all or part of any indebtedness assigned or allocated to the
34 new school district for payment of any other lawful indebtedness of the new
35 school district, for maintenance and operation of the new school district, or
36 for any other lawful purpose, until a different rate is approved by the

1 qualified electors of the new school district.

2 (e) In order to satisfy the payment obligations of a new school
 3 district with respect to the allocation of assets, or if the new school
 4 district assumes or becomes responsible for any indebtedness of the original
 5 school district, one (1) or more of the following methods may be used by the
 6 new school district to meet the new school district's obligations:

7 (1) Borrow funds from the original school district as mutually
 8 agreed by both school districts;

9 (2) Enter into lease with purchase agreements, revolving loans,
 10 term loans, post-date warrants, or installment contracts;

11 (3) Borrow funds from a private, governmental, or commercial
 12 lender;

13 (4) Issue bonds; or

14 (5) Use any other lawful method.

15 (f) The state board shall have the following rights and duties
 16 regarding creation of a school district by detachment:

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

20 (2) To transfer funds and attach territory that is in one (1)
 21 school district to other school districts as may seem best for the
 22 educational welfare of the children, including the loaning of funds to the
 23 new school district under terms and conditions acceptable to the state board;
 24 and

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

27 ~~(f)~~(g) In its order creating the new school district under this
 28 section, the state board may allow a transition period of up to two (2)
 29 consecutive years to allow the new school district to become fully
 30 operational.

31 (h)(1) The new school district shall publish a projected budget of
 32 expenditures for the first anticipated operational school year at least sixty
 33 (60) days before the next annual school election for which notice can be
 34 lawfully given.

35 (2) At the school election or any subsequent school election, a
 36 new school district may present to the qualified electors of the new school

1 district a proposed ad valorem tax for the maintenance and operation of
 2 schools and the retirement of indebtedness.

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 4 SECTION 2. Arkansas Code § 6-20-1201 is amended to read as follows:

5 6-20-1201. Authority to borrow money and issue negotiable bonds.

6 A school district may borrow money and issue negotiable bonds to repay
 7 borrowed moneys from school funds for:

- 8 (1) Building and equipping school buildings;
- 9 (2) Making additions and repairs to school buildings;
- 10 (3) Purchasing sites for school buildings;
- 11 (4) Purchasing new or used school buses;
- 12 (5) Refurbishing school buses;
- 13 (6) Providing professional development and training of teachers

14 or other programs authorized under the federally recognized qualified zone
 15 academy bond program, 26 U.S.C. § 1397E; ~~and~~

16 (7) Paying off outstanding postdated warrants, installment
 17 contracts, revolving loans, and lease-purchase agreements, as provided by
 18 law; and

19 (8) In the case of a new school district created under § 6-13-
 20 1505:

21 (A) Purchasing school buildings and other structures;

22 (B) Purchasing new or used furniture, fixtures, and
 23 equipment;

24 (C) Paying the costs of the allocation of assets to the
 25 news school district; and

26 (D) Paying or retiring the outstanding indebtedness of the
 27 original school district that the new school district has become responsible
 28 for under § 6-13-1505.

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 30 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 31 General Assembly of the State of Arkansas that there are a number of Arkansas
 32 school districts that are losing students; that the laws concerning
 33 detachment are not clear in assigning assets and indebtedness between old and
 34 new school districts; and that this act is immediately necessary to ensure
 35 that a newly created school district is able to secure property and assume
 36 debt. Therefore, an emergency is declared to exist, and this act being

1 immediately necessary for the preservation of the public peace, health, and
2 safety shall become effective on:

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

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

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

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11 **APPROVED: 04/02/2015**
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