

Hall of the House of Representatives
88th General Assembly - Regular Session, 2011
Amendment Form

Subtitle of House Bill No. 1877

TO ENSURE THAT SCHOOL DISTRICTS BELOW A SPECIFIC STUDENT ACHIEVEMENT
LEVEL USE PUBLIC SCHOOL FUNDING TO IMPROVE STUDENT ACADEMIC
ACHIEVEMENT.

Amendment No. 1 to House Bill No. 1877

Amend House Bill No. 1877 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 6-20-1210(a), concerning the use of surplus revenues in the building fund, is amended to read as follows:

(a)(1) ~~No part of any building~~ Except as provided under subdivision (a)(2) of this section, the building fund shall ~~not~~ be used for any other purpose in any year than to pay the bonds and interest ~~thereon~~ on the bonds maturing that year and any that may be past due, until the maturities are paid in full or until the funds are set aside to pay the full amount of the bonds~~;~~.

(2) ~~provided, the~~ The surplus in any year over and above the amount necessary to pay bonds and interest maturing that year, whether ~~hereafter or heretofore issued,~~ issued before or after that year, may be used by the respective school districts for any other school purposes.

(3) Any surplus funds under this subsection that are deposited into a fund account that contains foundation funding, as that term is defined in § 6-20-2308, are unrestricted, unreserved, general funds subject to the apportionment under § 6-20-2308.

SECTION 2. Arkansas Code § 6-20-1228(a), concerning the use of refunding of bonded indebtedness for the maintenance and operation of schools, is amended to read as follows:

(a)(1) Any school district of this state ~~is authorized to~~ may sell bonds in an amount not to exceed an amount equal to the principal amount of the bonds refunded as originally issued for the purposes of refunding all or any part of its bonded indebtedness outstanding at the time of passage of this act, and of providing funds for maintaining and operating schools in the school district. Such bonds may be sold with the privilege of conversion as provided in this subchapter.

(2) The funds used for providing for the maintenance and operation of schools under this subsection that are deposited into a fund



account that contains foundation funding, as that term is defined in § 6-20-2308, are unrestricted, unreserved, general funds subject to the apportionment under § 6-20-2308.

SECTION 3. Arkansas Code § 6-20-1904(a)(1), concerning the indicators of fiscal distress of a school district, is amended to read as follows:

(a) A school district meeting any of the following criteria may be identified by the Department of Education to be a school district in fiscal distress upon final approval by the State Board of Education:

(1)(A) A declining balance determined to jeopardize the fiscal integrity of a school district.

(B) ~~However, capital outlay~~ The following expenditures for academic facilities from a school district balance shall not be used to ~~put the school district in~~ determine that a declining balance is an indicator of fiscal distress:

(i) Capital outlay expenditures for academic facilities; and

(ii) Expenditures required or approved under § 6-20-2308;

SECTION 4. Arkansas Code § 6-20-2202(d)(1)(A)(ii), concerning the budget and expenditure report, is amended to read as follows:

(ii)(a) Information on fund balances maintained by the school district, open-enrollment public charter school, or education service cooperative, ~~including, but not limited to,~~ including without limitation the:

(1) Sources of the funds maintained as fund balances, ~~to the extent practicable~~ including without limitation foundation funding as defined under § 6-20-2308;

(2) Reasons for maintaining, instead of spending, the fund balances;

(3)(A) Amount of funds transferred between various funds during the past year.

(B) The school district, open-enrollment public charter school, and education service cooperative shall identify the funds transferred between various funds and the amount of funds transferred; ~~and~~

(4) Amount of fund balances dedicated for the construction, maintenance, or repair of academic or athletic facilities;

(5) Amount of fund balances containing surplus funds from a building fund under § 6-20-1210;

(6) Amount of fund balances containing revenues from the refunding of bonds under § 6-20-1228; and

(7) Amount of fund balances containing revenues from a dedicated operation and maintenance millage under § 26-80-110.

(b) The Department of Education shall promulgate rules that require reporting of fund balances sufficient for an auditor to verify whether funds allocated for educational purposes, ~~including, but not limited to,~~ including without limitation student academic needs and the maintenance and operation of public school district facilities,

are used for their intended purposes or retained by the school district in its fund balances.

SECTION 5. Arkansas Code § 6-20-2305(a)(1), concerning state foundation funding aid for school districts, is amended to read as follows:

(a)(1)(A) For each school year, each school district shall receive state foundation funding aid computed as ~~the difference between the:~~

(i) The foundation funding amount pursuant to under subdivision (a)(2) of this section and;

(ii) Less the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district; and

(iii) Less an amount of excess foundation funding under § 6-20-2308 that is:

(a) Not exempted by the Department of Education under § 6-20-2308; and

(b) Up to the foundation funding amount under subdivision (a)(2) of this section.

(B) The Department of Education shall distribute state foundation funding aid to each school district in eleven (11) equal monthly payments.

SECTION 6. Arkansas Code Title 6, Chapter 20, Subchapter 23 is amended to add an additional section to read as follows:

6-20-2308. Excess foundation funding.

(a) As used in this section:

(1) "Excess foundation funding" means the amount of a school district's foundation funding balance at the end of the immediately preceding school year that exceeds sixteen and sixty-seven one hundredths percent (16.67%) or more of the total foundation funding for the school district for the current school year;

(2)(A) "Foundation funding" means the amount of money specified under § 6-20-2305(a)(2) for each school year to be expended by school districts for the provision of an adequate education multiplied by the average daily membership of the school district.

(B) "Foundation funding" includes:

(i) Net revenues;

(ii) Miscellaneous funds;

(iii) State foundation funding aid;

(iv) Funding to ensure the ninety-eight percent (98%) collection rate under § 6-20-2305(a)(4); and

(v) The amount of excess foundation funding applied under subsection (c) of this section;

(3) "Foundation funding balance" means an amount of foundation funding remaining in the unrestricted legal fund balance of a school district for the school year just ended and calculated as:

(A) The unrestricted legal fund balance of the school district on July 1; multiplied by

(B) The fraction represented by dividing the total amount of foundation funding for the school district for the school year just ended by the total amount of all unrestricted revenue and unrestricted funding received by the school district in the school year just ended;

(4) "Miscellaneous funds" means the same as defined in § 6-20-2303;

(5) "Net revenues" means the same as defined in § 6-20-2303;

(6) "State foundation funding aid" means the same as defined in § 6-20-2303; and

(7) "Unrestricted legal fund balance" means the fund balance of a school district that is identified as the unrestricted legal fund balance by the Department of Education and contains foundation funding.

(b) The department shall annually identify the amount of foundation funding balance for each school district and public charter school.

(c) Except as provided under subsection (d) of this section, a school district's or public charter school's excess foundation funding shall be applied to the calculation of the amount of state foundation funding aid the school district or public charter school is entitled to receive under § 6-20-2305.

(d)(1) A school district or public charter school may apply to the department for an exemption from subsection (c) of this section for the portion of excess foundation funding that is identified for a purpose specified:

(A) In the school district's or public charter school's budget and expenditure report concerning fund balances under § 6-20-2202(d);

(B) Under the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.;

(C) In an application for funding under the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq.; or

(D) In the cycle 1 budget reported to the department for the current school year.

(2) The department shall approve or deny the school district's or public charter school's application for an exemption under the procedures established by rules of the State Board of Education.

(3) The school district or public charter school shall annually account for expenditures from exempted portions of excess foundation funding to the department in its budget and expenditure report until the funds have been spent for the purpose for which the exemption is granted.

(e)(1) By September 1, 2011, the State Board of Education shall establish by rule one (1) or more indicators of student achievement to determine the level at which the school district or public charter school is subject to restriction on spending its excess foundation funding remaining after the application of subsection (c) of this section.

(2) Beginning with the 2012-2013 school year, a school district or public charter school that meets the criteria established by the state board under subdivision (e)(1) of this subsection for:

(A) Eighty percent (80%) or more of its students may save or spend its excess foundation funding remaining after the application of subsection (c) of this section;

(B) Sixty-five percent (65%) or more but less than eighty percent (80%) of its students shall spend all excess foundation funding remaining after the application of subsection (c) of this section;

(C) More than fifty percent (50%) but less than sixty-five percent (65%) of its students shall spend its excess foundation funding remaining after the application of subsection (c) of this section under the guidance of the department to implement programs specifically designed to

improve student achievement that may include without limitation after-school programs and tutoring; and

(D) Fifty percent (50%) or less of its students shall:

(i) Be identified as being in academic distress by the department under § 6-15-428; and

(ii) Spend its excess foundation funding remaining after the application of subsection (c) of this section as directed by the department.

(f)(1) It is a violation of the Standards for Accreditation of Arkansas Public Schools and School Districts for a school district or public charter school to spend excess foundation funding in violation of this subsection.

(2) The department may require a school district to replace the all or part of the funds spent in violation of this subsection.

SECTION 7. Arkansas Code § 26-80-110(b), concerning the use of funds received from the collection of a dedicated maintenance and operations tax, is amended to read as follows:

(b) Any funds received from the collection of a dedicated maintenance and operations tax shall be:

(1) ~~used~~ Used only for maintenance and operation purposes specifically approved by the majority of the qualified voters of the school district voting in the school election and for no other purposes than those that were stated on the ballot; and

(2) Accounted for as restricted under § 6-20-2203 and rules established by the State Board of Education.

SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that many Arkansas students still fall below a standard of proficiency on state-mandated student achievement assessments; that millions of state taxpayer dollars intended for educational adequacy sit in school district fund balances; that the Arkansas Supreme Court has declared that part of the state's constitutional obligation for providing educational adequacy is to hold school districts accountable for the expenditure of foundation funding; and that this act is immediately necessary to require school districts to fund educational adequacy with excess foundation funding beginning with the 2011-2012 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

The Amendment was read
By: Representative Pierce
CLR/CLR - 03/15/11 03:17
CLR263

Chief Clerk