

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 139

5 By: Senator K. Ingram
6 By: Representative Perry
7

For An Act To Be Entitled

9 AN ACT TO REVISE THE PROCEDURE FOR CURING A
10 DEFICIENCY IN BOND PAYMENTS BY A SCHOOL DISTRICT; AND
11 FOR OTHER PURPOSES.
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Subtitle

15 TO REVISE THE PROCEDURE FOR CURING A
16 DEFICIENCY IN BOND PAYMENTS BY A SCHOOL
17 DISTRICT.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 6-20-1204 is amended to read as follows:
23 6-20-1204. Form of bonds – Security.

24 (a) School bonds shall be issued by a school district in ~~such form as~~
25 ~~the directors of the district shall prescribe~~ the form prescribed by the
26 school district's board of directors.

27 (b) School bonds may be secured by debt service millage.

28 (c)(1) As additional security for the payment of any bond of a school
29 district, the ~~State Board of Education~~ Commissioner of Education shall cure
30 ~~any delinquencies~~ a delinquency in payment by withholding state ~~aid~~ funding
31 due the district.

32 (2)(A)(i) ~~Whenever~~ When the designated paying agent for receipt
33 of the district's payments does not receive a payment when due pursuant to
34 the authorizing documents, the paying agent ~~will be~~ is entitled to payment
35 from the withheld state ~~aid~~ funding in ~~any~~ an amount sufficient to cure the
36 payment deficiency ~~upon notifying~~ if the designated paying agent notifies the



1 ~~Commissioner of Education~~ commissioner and the superintendent of the school
 2 district by telephone, facsimile, or other similar communication followed by
 3 written verification.

4 (ii) Unless the commissioner determines that payment
 5 has been made by the school district and that there is ~~no longer~~ not a
 6 payment deficiency, the commissioner shall withhold from the next
 7 distribution of state ~~aid~~ funding and remit to the paying agent an amount
 8 sufficient to cure the deficiency.

9 (B) ~~In the event that~~ If the amount next due to be
 10 distributed to the delinquent school district is not sufficient to cure the
 11 delinquency, the commissioner shall continue to withhold state ~~aid~~ funding as
 12 due and remit it to the paying agent until the payment deficiency has been
 13 cured.

14 (C) If the commissioner is notified that a school district
 15 is delinquent on two (2) or more obligations, the commissioner shall make
 16 payment to paying agents in the order of receipt of notices of the
 17 delinquencies.

18 (3) If the ~~state board~~ commissioner withholds state ~~aid~~ funding
 19 from a school district pursuant to this subsection, the Department of
 20 Education shall identify the school district shall be classified as a Phase
 21 III school district in distress as described in § 6-20-1609 [repealed] to be
 22 a school district in fiscal distress under the Arkansas Fiscal Assessment and
 23 Accountability Program, § 6-20-1901 et seq.

24 (4) The requirements of this subsection apply to bonds issued by
 25 a school district before July 1, 2013.

26 (d)(1) For school bonds issued by a school district on or after July
 27 1, 2013, a school district shall submit bond payments to its designated
 28 paying agent not later than fifteen (15) calendar days before the date the
 29 payments are due under the authorizing documents.

30 (2) Whenever the designated paying agent does not receive a
 31 payment within the time period in subdivision (d)(1) of this section, the
 32 paying agent immediately shall notify the commissioner and the superintendent
 33 of the school district in writing.

34 (3)(A) If the designated paying agent does not receive the bond
 35 payment from the district at least five (5) calendar days before the date the
 36 payment is due under the authorizing documents, the department immediately

1 shall cure any deficiency in payment by making payment in the full amount of
2 the deficiency to the designated paying agent.

3 (B) If the commissioner determines that payment has been
4 made by the school district and that a payment deficiency does not exist, the
5 department shall not make the payment under subdivision (d)(3)(A) of this
6 section.

7 (C) If the department makes payment under subdivision
8 (d)(3)(A) of this section, it shall identify the school district on behalf of
9 which the payment is made to be a school district in fiscal distress under
10 the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et
11 seq.

12 (D)(i) If the department makes payment under subdivision
13 (d)(3)(A) of this section, a school district shall be indebted to the
14 department in the full amount paid by the department and immediately shall
15 remit the full amount to the department.

16 (ii) If a school district does not remit the full
17 amount to the department under subdivision (d)(3)(D)(i) of this section, the
18 department shall withhold from the school district the next distribution of
19 state funding in an amount sufficient to reimburse the department for the
20 payment.

21 (iii) In the event that the amount of state funding
22 next due to be distributed to the school district is not sufficient to
23 reimburse the department, the department shall continue to withhold state
24 funding due to the school district until the department is fully reimbursed.

25 (iv) If the commissioner determines that payment has
26 been made to the department by the school district and that the obligation of
27 the school district to the department no longer exists, the department shall
28 not withhold from the school district the distribution of state funding under
29 subdivisions (d)(3)(D)(ii)-(iii) of this section.

30 (e) As used in subsections (c) and (d) of this section, "state
31 funding" includes without limitation:

32 (1) The following state funding under § 6-20-2305:

33 (A) State foundation funding aid;

34 (2) Declining enrollment funding;

35 (3) Student growth funding; and

36 (4) State categorical funding;

1 (2) Isolated funding and additional isolated funding under § 6-
2 20-601 et seq.; and

3 (3) Other funding due to a school district under an
4 appropriation of the General Assembly.

5 ~~(d)~~(f) Holders of bonds of the school district shall have a first and
6 prior right and security interest in the revenue produced by the debt service
7 millage pledged by the school district to the payment of its bonds.

8 (g) The State Board of Education may promulgate the rules and
9 regulations necessary to administer this section.

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