

# ARKANSAS SENATE

## 84th General Assembly - Second Extraordinary Session, 2003 Amendment Form

\*\*\*\*\*

### Subtitle of House Bill No. 1009

"AN ACT TO DIVIDE THE DEPARTMENT OF EDUCATION INTO THE DIVISION OF CURRICULUM AND INSTRUCTION AND THE DIVISION OF ACCOUNTABILITY."

\*\*\*\*\*

### Amendment No. 3 to House Bill No. 1009.

Amend House Bill No. 1009 as engrossed, S2/4/04 (version: 02-04-2004 13:08):

Page 1, delete lines 9 through 12 and substitute:

"AN ACT TO CREATE THE DIVISION OF PUBLIC SCHOOL ACCOUNTABILITY AND THE DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES; TO REQUIRE THE REALIGNMENT OF THE DEPARTMENT OF EDUCATION; TO CHANGE THE TERM OF OFFICE OF MEMBERS OF THE STATE BOARD OF EDUCATION; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"AN ACT TO CREATE THE DIVISION OF PUBLIC SCHOOL ACCOUNTABILITY AND THE DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES; TO REQUIRE THE REALIGNMENT OF THE DEPARTMENT OF EDUCATION."

AND

Delete everything following the enacting clause and substitute:

"SECTION 1. Creation of the Division of Public School Accountability.

(a)(1) To enhance the public's access to public school performance indicators and to better measure the benefits of the increasing public investment in Arkansas' schools, the General Assembly finds that a Division of Public School Accountability shall be established under the direct operational control of the State Board of Education.

(2) The foremost obligation of the division shall be to administer all monitoring and compliance activities dealing with academic and fiscal accountability for each school or school district and report academic progress.

(b) There is created a Division of Public School Accountability, which shall begin operation within one hundred twenty (120) calendar days following the effective date of this act.

(c) The division shall be under the supervision of the state board.



(d)(1) The state board shall select an individual to serve as the Director of the Division of Public School Accountability and the director shall serve at the pleasure of the state board.

(2) The person selected as the director shall:

(A) Be a person of good moral character and qualified technically and by experience to direct the work of the Division of Accountability;

(B) Hold a master's degree or a higher level degree from an accredited institution; and

(C) Have ten (10) years of experience in an administrative, supervisory, or management position.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the board shall be eligible to serve as the director.

(e) The director, with guidance and approval from the state board, shall be responsible for hiring all employees of the division.

(f) The division shall have the following responsibilities:

(1) Monitor schools for compliance with state and federal regulations;

(2) Monitor schools for compliance with legislative acts and court-ordered mandates;

(3) Monitor schools for compliance with all standards of learning and accreditation as established by the state board;

(4) Monitor schools for compliance with all rules and regulations as established by the state board;

(5) Coordinate the analysis, dissemination, and reporting of all criterion and norm-referenced testing information;

(6) Coordinate the implementation and administration of longitudinal tracking and trend data collection as established by the state board for the purposes of improving student and school performance, ensuring mastery of the curriculum, and providing comparisons between students within Arkansas and with students in other states;

(7) Coordinate the implementation and administration of value-added assessments as established by the state board;

(8) Coordinate the implementation and administration of the annual school performance reports as established by the state board;

(9) Administer all monitoring and compliance activities dealing with academic and fiscal accountability as established by the state board; and

(10) Work with program approval and certification sections of the Department of Education, the Department of Higher Education, the Department of Workforce Education, and the individual colleges to provide information that will contribute to reasonable, equitable, and excellent preparation of certified personnel in the institutions, both public and private, of higher education.

(g)(1) The division shall provide annual reports of school performance or compliance to the Joint Interim Oversight Committee on Education Reform, the House Interim Committee on Education, and the Senate Interim Committee on Education.

(2) A preliminary report shall be provided by January 1 of each year and a follow-up report that includes information regarding on-site visits shall be filed by June 1 of each year.

(h)(1) There is created the Arkansas Public Schools Accountability Advisory Council that shall begin operation within one hundred twenty (120) calendar days following the effective date of this act. The membership of the council shall include:

(A) One (1) member designated as chair to be selected by the Governor, who shall be a representative of Arkansas businesses;

(B) One (1) member selected by the Governor, who shall be a representative of an educator's union in the State of Arkansas;

(C) One (1) member selected by the Governor, who shall be a parent or guardian of at least one (1) student currently enrolled in grades kindergarten through twelve (K-12) in a public school in the State of Arkansas;

(D) One (1) member selected by the Speaker of the House of Representatives who shall be a representative of higher education;

(E) One (1) member appointed by the President Pro Tempore of the Senate who shall be a representative of Arkansas businesses;

(F) One (1) member appointed by the Chair of the Senate Committee on Education who is currently employed as a teacher in the grades kindergarten through twelve (K-12) public school system in the State of Arkansas; and

(G) One (1) member appointed by the Chair of the House Committee on Education who shall be a representative of the administration of a public school in the State of Arkansas.

(2) The council shall provide advice and consultation services for the director.

(3) The council may be convened by the chair of the council, by the chair of the state board, or by the director.

(4) Members shall not receive compensation for service on the council but may receive expense reimbursement as provided in Arkansas Code § 25-16-902.

## SECTION 2. Creation of the Division of Public School Academic Facilities.

(a) In order to ensure that substantially equal access to adequate educational facilities and educational equipment is provided for all public school students in Arkansas, the General Assembly finds that a Division of Public School Academic Facilities should be established under the direct supervision of the State Board of Education.

(b) There is created a Division of Public School Academic Facilities which shall begin operation within one hundred twenty (120) calendar days following the effective date of this act.

(c) The Division of Public School Academic Facilities shall be under the supervision of the state board.

(d)(1) The state board shall select an individual to serve as the Director of the Division of Public School Academic Facilities and the Director of the Division of Public School Academic Facilities shall serve at the pleasure of the state board.

(2) The Director of the Division of Public School Academic Facilities shall be an architect that is licensed by the State of Arkansas.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the board shall be eligible to serve as the director.

(e) The Director of the Division of Public School Academic Facilities, with guidance and approval from the state board, shall be responsible for hiring all employees of the division.

(f) The Executive Chief Information Officer shall assign one (1) individual from the staff of the Office of Information Technology to serve as a technology liaison to the Division of Public School Academic Facilities.

(g) The Director of the Arkansas Building Authority shall assign one (1) individual from the staff of the Arkansas Building Authority to serve as a physical plant liaison to the Director of the Public School Academic Facilities.

(h) The Division of Public School Academic Facilities shall:

(1) Provide information or assistance to the Joint Committee on Educational Facilities created by Act 1181 of 2003 as requested by the joint committee;

(2) Use any recommendation or assessments of the joint committee or the General Assembly as a basis for establishing the policies and procedures of the Division of Public School Academic Facilities; and

(3) Provide assistance, as requested, to the Joint Committee on Educational Facilities in conducting an assessment of all school facilities in the state and continue to update and maintain current assessments of all school facilities after the expiration of the joint committee on December 31, 2004.

(i)(1) The Director of the Division of Public School Academic Facilities shall create and implement a standardized reporting format and select the method to be utilized by school districts in the preparation and submission of the list to the Division of Public School Academic Facilities.

(2) The data gathered from the reports generated by the school districts shall be presented to the state board for compilation into an annual report to the Governor and the House Interim Committee on Education and the Senate Interim Committee on Education on the facility needs in the state.

(3) The Division of Public School Academic Facilities shall conduct any reviews, site visits, and other research during the year to assist in preparation of the annual report.

(j)(1) The Director of the Division of Public School Academic Facilities shall provide to the Governor and the House Interim Committee on Education and the Senate Interim Committee on Education reports on the status of public school academic facilities including the facility and technology needs and priorities for each category.

(2) A preliminary report shall be provided by January 1 each year and a follow-up report that includes information regarding on-site visits shall be filed by June 1 each year.

(k)(1)(A) No later than September 30 of each even-numbered year of the biennium, the Division of Public School Academic Facilities shall present to the state board the list of public school facility repairs, improvements, and construction along with technology improvements that the Division of Public School Academic Facilities recommends for the next biennium.

(B) Copies of the list shall be provided to the Governor and the House Interim Committee on Education and the Senate Interim Committee on Education.

(2) The state board shall prioritize funding for public school facility repairs, improvements, and construction along with technology

improvements based on the recommendations of the Division of Public School Academic Facilities.

(1) The state board and the Division of Public School Academic Facilities shall develop, by rule and regulation, the process for developing the list of public school facility repairs, improvements, and construction along with technology improvements necessary under this act.

SECTION 3. REALIGNMENT OF THE DEPARTMENT OF EDUCATION. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW.

(a)(1) Following the implementation of this act, the Department of Education shall realign.

(2) The purpose of the realignment shall be for the department and the Division of Public School Accountability and the Division of Public School Academic Facilities to maximize their role as the active senior partners with the schools and to prepare to intervene immediately rather than after the school or school district fails.

(3)(A) To realign, the department shall form a taskforce consisting of the Director of the Division of Public School Accountability, the Director of the Division of Public School Academic Facilities, key department personnel, school district personnel, teachers, and other stakeholders to conduct a study of the department's and the divisions' delivery system and to make recommendations for the department's realignment.

(B) As part of the study, the taskforce shall:

(i) Review the functions, and responsibilities of the department, the Division of Public School Accountability, and the Division of Public School Academic Facilities to align the personnel according to these functions and responsibilities to ensure each employee is qualified and capable of performing his or her duties according to the functions and responsibilities as defined by the taskforce; and

(ii)(a) Conduct a comprehensive review of the salaries of individuals necessary to fulfill the department's functions as defined by the taskforce, responsibilities, and constitutional mission of the state.

(b) This study shall include a review of equity adjustments necessary to recognize differences in responsibility, performance, or seniority.

(C) Qualifications and salary levels of the department's staff shall be comparable to those of similar employees in school districts or in other state education agencies.

(b) Following the work of the taskforce under this section, the department shall present proposed changes in staff grades and salaries to the Joint Budget Committee at the earliest opportunity for the purpose of preparing suggested legislation to be approved by the General Assembly.

(c) The Director of the Department of Education may transfer any unclassified position to the Division of Public School Accountability or the Division of Public School Academic Facilities if the director of the division agrees that the position is an appropriate position to be in the division and approves the transfer.

(d) The restructuring of the department shall be conducted in a manner that will provide sufficient personnel within the department to provide administrative and technological support to the Division of Public School

Accountability and the Division of Public School Academic Facilities at a level that is sufficient for the divisions to carry out the duties set forth in this act.

(e) In the restructuring of the department the director may require the department, the Division of Public School Academic Facilities, and the Division of Public School Accountability to coordinate and share certain administrative, custodial, legal, internal finance, and other necessary personnel to effectuate the daily operations of those divisions and the department.

SECTION 4. Arkansas Code § 6-11-101(b), concerning the term of office of State Board of Education members, is amended as follows:

(b)(1) The term of office of a member of the board, appointed prior to the effective date of subdivision (b)(2)(A) of this section, shall be six (6) years.

(2)(A) The term of office of the first member appointed after the effective date of this subdivision (b)(2)(A) shall be a single term of six (6) years and all other appointments after the effective date of this subdivision (b)(2)(A) shall be for a single term of seven (7) years.

(B)(i) Any member appointed to the state board to fill a vacancy for an uncompleted term with fewer than three (3) years remaining on the original term may be reappointed to an additional term of seven (7) years.

(ii) No member serving three (3) or more years on the state board may be reappointed.

(3) No current or new member shall be allowed to resign in order to be appointed to a new term on the board.

(4) Nothing in this section shall be construed to change the terms of any member of the state board that was appointed prior to the effective date of this subdivision (b)(2)(A) of this section.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; the Arkansas Supreme Court set forth the test for a constitutional system to be a system in which the state has an "absolute duty" to provide an "equal opportunity to an adequate education"; and that this act is immediately necessary because the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. 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 the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Argue

KAC/TAT - 02-04-2004 13:54

TAT411

\_\_\_\_\_  
Secretary