

# Hall of the House of Representatives

87th General Assembly - Regular Session, 2009

## Amendment Form

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### Subtitle of House Bill No. 2140

"TO PROVIDE FOR THE CONTINUED PAYMENT OF OBLIGATIONS ON UNMATURED BONDS INVOLVED IN MULTIPLE SCHOOL DISTRICT REORGANIZATIONS AND TO CREATE SCHOOL FACILITIES IMPROVEMENT DISTRICTS."

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### Amendment No. 1 to House Bill No. 2140.

Amend House Bill No. 2140 as originally introduced:

Page 1, delete lines 13 and 14 and substitute:

"SCHOOL DISTRICTS; TO CREATE PUBLIC SCHOOL ACADEMIC FACILITIES DISTRICTS AS ENTITIES TO ASSUME BOND"

AND

Page 1, line 16, delete "MULTIPLE-SCHOOL" and substitute "MULTIPLE SCHOOL"

AND

Delete everything after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 6-20-1214 is amended to read as follows:  
6-20-1214. Obligations on district dissolution or division.

(a) As used in this section:

(1) "Assessed value" means the assessment of real property in a dissolved district or a divided district multiplied by the total millage rate of the dissolved district or the divided district in effect at the time of the dissolution or division under this section;

(2) "Bonded facility" means a school building for which a public school district issued bonds under this subchapter;

(3) "Dissolved district" means a public school district that is dissolved under § 6-13-1409;

(4) "Divided district" means a public school district that loses real property through:

(A) A boundary change under § 6-13-1414;

(B) Detachment under § 6-13-1501 et seq.; or

(C) Annexation of a part of its real property under § 6-13-1601 et seq.; and

(5) "Receiving district" means a public school district that:

(A) Receives real property from a dissolved district or a



divided district under this section; or

(B) Retains real property as a divided district under this section.

(a)(b) ~~Dissolution of any school district~~ The dissolution of a public school district under § 6-13-1409 or the division of a public school district under § 6-13-1414, § 6-13-1501 et seq., or § 6-13-1601 et seq. shall not of itself mature any outstanding bonds or other unmatured obligations of the school district, but the school district to which the territory of the dissolved school district is added shall be liable for the bonds and for the levying of a tax to pay them as herein provided for the obligation of school districts when a school district or a part thereof is annexed to another district dissolved district or the divided district but shall become the liability of a receiving district, as determined by the State Board of Education under this section.

(c) When more than one (1) public school district receives or retains real property from a dissolved district or a divided district, the state board shall determine the portion of the following assets and liabilities of a dissolved district or a divided district allocated or distributed to a receiving district:

(1) Interests in:

- (A) Real property;
- (B) Equipment;
- (C) Fund balances; and
- (D) Other assets; and

(2) Liability for:

- (A) Contractual obligations;
- (B) Outstanding bond obligations; and
- (C) Other debts and unmatured obligations.

(d)(1) The state board shall base the allocation or distribution of assets and liabilities among the receiving districts on the assessed value of the real property distributed to a receiving district.

(2) If before the final allocation or distribution of property under this section a receiving district advises the state board that it will not use a bonded facility located on the real property allocated or distributed to the receiving district, the state board shall not include the assessed value of the abandoned bonded facility in the assessed value of the real property allocated or distributed under this section to the receiving district.

(3) If the receiving district later uses the bonded facility, it shall assume, as determined by the state board, a larger portion of the bonded indebtedness on the bonded facility based on the additional assessed value of the bonded facility, and every other receiving district's portion of bonded indebtedness on the school facility shall be reduced.

(4)(A) A receiving district may use an abandoned bonded facility of another receiving district by entering into a lease agreement for the use of the bonded facility.

(B) The Department of Education shall approve the lease agreement, which shall:

(i) Include all other receiving districts that assumed a portion of the bonded indebtedness on the bonded facility as parties to the lease agreement; and

(ii) Provide that the receiving district that is

leasing the property shall pay a portion of the lease amount to each receiving district that assumed all or part of the bonded indebtedness for the bonded facility.

(C) A receiving district shall use the amount of the lease payment received under this subsection only to pay the bond obligation on the bonded facility assumed by the receiving district.

(e) If a receiving district is a participating school district in a public school academic facilities district formed under § 6-28-201 et seq., the state board may allow the public school academic facilities district to assume outstanding bond obligations on academic facilities within a dissolved or divided district under this section.

(f) The additional security under § 6-20-1204 and the bonded debt assistance under § 6-20-2503 on outstanding bonds shall remain in effect for the portion of outstanding bonds assumed by a receiving district or a public school academic facilities district under this section.

(g)(1) A receiving district that assumes all or part of outstanding bonded indebtedness or other unmatured obligations under this section shall levy a tax as provided in this subchapter if the tax is needed to pay assumed indebtedness.

(2) The millage rate in effect for a receiving district shall remain the same until an election is held to change the rate of taxation for the bonded indebtedness assumed by the receiving district under this section.

~~(b)~~(h) In addition to the remedy of mandamus to enforce performance of the duties of school officers in the payment of bonds, any bondholder or trustee of such a bond issue may apply to the circuit court having jurisdiction of the territory in which the school district is situated for mandatory orders for the collection of money due from the school district on all bonds for the levy and collection of such taxes real property of the receiving district for an order requiring the receiving district to pay the amount due from the receiving district on the outstanding bonds from the receiving district's resources, including without limitation the taxes levied by the receiving district for the payment of the bond obligation assumed by the receiving district.

SECTION 2. Arkansas Code Title 6 is amended to add an additional chapter to read as follows:

CHAPTER 28  
PUBLIC SCHOOL ACADEMIC FACILITIES DISTRICTS

6-28-101. Purposes.

(a) The purpose of this chapter is to provide for the formation of a public school academic facilities district by resolutions approved by the majority of the board of directors of each school district located in the territory to be included in the public school academic facilities district.

(b) A public school academic facilities district may be formed for the purposes of:

(1) Owning, acquiring, constructing, repairing, renovating, and maintaining academic facilities located within the public school academic facilities district;

(2) Assuming the outstanding bonded indebtedness of a dissolved or divided school district under § 6-20-1214;

(3) Conducting a bond election within the public school academic

facilities district;

(4) Issuing negotiable bonds for the payment of outstanding indebtedness incurred by the public school academic facilities district under this chapter; and

(5) Levying a tax for the payment of the bond obligations of the public school academic facilities district.

6-28-102. Definitions.

As used in this chapter:

(1)(A) "Academic facility" means a building or space, including related areas such as the physical plant and grounds where students receive instruction, as provided in subdivision (1)(D) of this section, and as further defined by rules of the Commission for Arkansas Public School Academic Facilities and Transportation.

(B)(i) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(ii) The commission shall determine the extent to which a building, space, or related area is used for extracurricular activities or organized physical activities courses based on information supplied by the school district and, if necessary, on-site inspection.

(C) School district administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter;

(D) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education are considered academic facilities for purposes of this chapter, but are not subject to § 6-28-104.

(2) "Participating school district" means a school district that acting individually or jointly with one (1) or more other school districts proposes to become or is a part of a public school academic facilities district;

(3) "Person" means an individual, corporation, partnership, association, firm, or other entity recognized by law as having capacity to own real property in the State of Arkansas; and

(4) "Real property" shall be construed to embrace all property subject to assessment for the purposes of this chapter.

6-28-103. Construction.

This chapter shall be liberally construed to accomplish the purposes of this chapter, and this chapter shall be the sole authority necessary to accomplish its purposes.

6-28-104. Applicability of law pertaining to public school academic facilities.

An academic facility owned, acquired, or financed by a public school academic facilities district is subject to Arkansas law and the rules of the Commission for Arkansas Public School Academic Facilities and Transportation

for the construction, maintenance, repair, and renovation of academic facilities.

6-28-105. Formation of a public school academic facilities district.

(a) One (1) or more school districts may initiate the formation of a public school academic facilities district under this chapter if a majority of the board of directors of each participating school district adopts a resolution, or a joint resolution if more than one (1) school district, that states the following:

(1) The intention to form the proposed public school academic facilities district;

(2) The general purposes for which the proposed public school academic facilities district is to be formed;

(3) The name of the proposed public school academic facilities district;

(4) The estimated cost of the formation of the public school academic facilities district;

(5) That a map showing the exterior boundaries of the proposed public school academic facilities district is on file with the board of directors and is available for inspection by the public;

(6) That any taxes levied for the purpose of financing the bonds issued to finance a project shall be levied exclusively on the lands in the proposed public school academic facilities district; and

(7)(A) The names of the persons to serve as initial commissioners of the proposed public school academic facilities district shall be selected by the participating school districts, acting jointly if more than one (1), to recommend three (3) persons, each of whom is either:

(i) A director of a participating school district;

or  
(ii) An individual of integrity and good business ability who owns real property in the public school academic facilities district and resides in the public school academic facilities district.

(B) In the event that a nonboard member is a corporation, partnership, trust, or other legal entity, any officer, director, trustee, employee, or other designated representative of the entity may be named and appointed as a commissioner.

(b) Within thirty (30) days before the date a hearing is scheduled, a participating school district shall file the resolution or joint resolution with the State Board of Education.

6-28-106. Hearing on resolution.

(a)(1) Each participating school district shall give notice of a hearing on the proposition of forming the public school academic facilities district and calling upon all persons who wish to be heard upon the question of the formation of the public school academic facilities district to appear.

(2) The notice shall be published in a newspaper of general circulation in each county in which a participating school district is located one (1) time a week for two (2) consecutive weeks.

(b)(1) After the last public hearing is conducted, the State Board of Education shall determine whether the participating school districts substantially complied with the provisions of this chapter.

(2) If the state board finds that each participating school

district substantially complied, the state board shall enter its order creating the public school academic facilities district and appointing the commissioners named in the resolution as the initial board of commissioners.

(3) If the state board finds that a participating school district did not substantially comply with provisions of this chapter, the state board shall enter its order denying the formation of the public school academic facilities district.

(c) The state board shall assign a number to the public school academic facilities district to prevent its being confused with other public school academic facilities districts.

6-28-107. Qualifications of commissioners -- Oath.

(a) A person is not eligible to be a commissioner of a public school academic facilities district in this state unless he or she is a qualified elector within the public school academic facilities district.

(b) A person who is appointed or elected to a board of commissioners of a public school academic facilities district is not eligible for employment in a participating school district.

(c) Each commissioner appointed or elected, within ten (10) days after receiving notice of his or her appointment or election, shall subscribe to the following oath:

"I, \_\_\_\_\_, do hereby solemnly swear or affirm, that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will not be interested, directly or indirectly, in any contract made by the public school academic facilities district of which I am a commissioner, except as permitted by state law and that I will faithfully discharge the duties as commissioner in \_\_\_\_\_ Public School Academic Facilities District, No. \_\_\_\_\_ of \_\_\_\_\_ County, Arkansas, upon which I am about to enter."

(d) The county clerk, upon receipt of the oath prescribed for a commissioner, shall immediately commission the person, and the commissioner shall enter at once upon his or her duties as commissioner.

6-28-108. Board of commissioners generally.

(a) The board of commissioners of a public school academic facilities district shall consist of at least three (3) but not more than five (5) commissioners appointed or elected as provided in this chapter.

(b) The board annually shall elect from among its members a chair, a treasurer, and a secretary.

(c)(1) Commissioners shall serve staggered terms of three (3) years.

(2) The initial board of commissioners shall draw lots to determine the length of the term for each commissioner.

(3) Upon the expiration of the term of a commissioner, a new commissioner shall be elected at large by the qualified electors within the public school academic facilities district in the same manner as a director of a public school district.

(d) In the event of a vacancy on the board of commissioners, the remaining commissioners shall appoint a successor meeting the requirements of the original appointment, who shall qualify under this section and serve the remaining term.

(e) The powers and duties of the board of commissioners are to:

(1) Make and execute all contracts, leases, conveyances, and other instruments of the public school academic facilities district;

(2) Accept as a gift any or all of the land, improvements, and facilities authorized in this chapter upon the assumption of:

(A) Any unmatured obligations incurred for the acquisition, construction, repair, maintenance, or renovation of an academic facility, if applicable; and

(B) The maintenance and operation of the facilities and improvements;

(3) Select a solvent bank or trust company as the depository of its funds;

(4) Employ such agents, servants, engineers, and attorneys as it deems necessary to accomplish the purposes of this chapter;

(5) Establish rules and regulations for the transaction of the public school academic facilities district's business and for the services, use, and right to use of its facilities or services, or both, or to effectuate any purpose of this chapter;

(6) Do all things incidental to the exercise of the express powers granted by this chapter; and

(7) Perform all acts useful to carry out the purposes of this chapter.

(f) A member of the board shall not be:

(1) Compensated except for the reimbursement of reasonable expenses for travel to board meetings; or

(2) Liable for any damages unless he or she acted with a corrupt and malicious intent.

6-28-109. Interest of commissioners in purchase, acquisition, or donation.

(a) A commissioner of a public school academic facilities district shall not:

(1) Be financially interested, directly or indirectly, in any firm, corporation, or association from which any property, services, materials, or facilities are purchased, acquired, or received by donation for the public school academic facilities district; or

(2) Enter into any contract with, or accept a donation of property or facilities from, any person with whom the commissioner is directly or indirectly, engaged in business.

(b) A commissioner who violates this section may be removed by the Commissioner of Education.

6-28-110. Authority to borrow money and issue negotiable bonds.

(a) A public school academic facilities district may borrow money and issue negotiable bonds for the repayment of debt obligations for the acquisition of land and academic facilities, the construction, repair, maintenance, renovation, and equipping of academic facilities, and for paying off other outstanding indebtedness incurred by the public school academic facilities district as necessary to accomplish the purpose of this chapter.

(b)(1) Bonds of a public school academic facilities district shall be authorized, offered for sale, issued and paid, and taxes levied and collected for payments related to the bonds, and the proceeds of the bonds and the collected taxes deposited and held in the same manner required for a public

school district under § 6-20-1201 et seq.

(2) Whenever under § 6-20-1201 et seq. a reference is made to the bonds of a public school district that reference shall mean, in the case of bonds of a public school academic facilities district, bonds authorized by the electors of the public school academic facilities district, and issued on behalf of the school facilities improvement district.

(3) Whenever under § 6-20-1201 et seq. a reference is made to taxation of property in a public school district that reference shall mean, in the case of bonds of a public school academic facilities district, taxation of property located only within the public school academic facilities district for payment of amounts due related to the bonds of the public school academic facilities district, and issued on behalf of the school facilities improvement district.

(c) The bonds shall be issued in the name of the public school academic facilities district.

(d) A participating school district may pay from school funds a pro rata share of the expenses of the bond election and issuance of the bonds.

(e) The indebtedness and the bonds shall be payable from taxes to be levied and collected upon lands located within the public school academic facilities district.

(f) Bonds issued by a public school academic facilities district are deemed to be issued for the benefit of the participating school districts.

#### 6-28-111. Funds -- Deposit of proceeds.

The board of commissioners shall establish within the county treasury a school facilities fund for the purpose of depositing the proceeds of the bonds of the public school academic facilities district, which shall serve as the building fund for purposes of § 6-20-1201 et seq.

#### 6-28-112. Sale and lease of real property.

(a) The board of commissioners of a public school academic facilities district may acquire, hold, and lease real property as is necessary and proper for the purposes of the education of students residing within the public school academic facilities district or for the benefit of students who reside outside of the public school academic facilities district and for the efficient administration of the participating school districts.

(b)(1) The board of commissioners may permit the use of an academic facility owned by the public school academic facilities district for social, civic, and recreational purposes or any other community purpose, including without limitation any lawful meetings of citizens residing within the public school academic facilities district, provided such meetings do not interfere with the regular use of the facility by a school located within the public school academic facilities district.

(2) The board of commissioners may charge a fee for the use of an academic facility under this subsection (b).

(c) Lease payments for any academic facility owned by the public school academic facilities district shall be used to pay the obligations on any bonds issued by the public school academic facilities district.

(d)(1) If the board of commissioners determines that any real property owned or controlled by the public school academic facilities district is not required for the present or anticipated future needs of a participating school district and that the donation of the real property would serve a



beneficial educational service for the students residing within the public school academic facilities district, then the public school academic facilities district may donate property or any part thereof to a state-supported institution of higher education, a technical institute, a community college, or an educational not-for-profit organization, for any of the following limited purposes:

(A) Having the real property improved, upgraded, rehabilitated, or enlarged by the donee;

(B) Providing the donee with facilities in which the donee may hold classes for students who reside within the public school academic facilities district or who may benefit from the classes but reside outside of the public school academic facilities district; or

(C) Providing community programs, social enrichment programs, or after-school programs for students who reside within the public school academic facilities district or who may benefit from the classes but reside outside of the public school academic facilities district.

(2) If the public school academic facilities district donates real property to an entity under this subsection (d), then the public school academic facilities district shall have the right of first refusal to reacquire the real property if the entity decides to sell or otherwise dispose of the real property.

6-28-113. Dissolution of district.

(a) Upon petition by the board of directors of each participating school district and after all bonds or other evidences of indebtedness, plus all interest on them, are paid in full, the State Board of Education may dissolve a public school academic facilities district.

(b) Upon the dissolution of the public school academic facilities district, all further levies and assessments are cancelled and the commissioners relieved from further duties

(c) The state board shall distribute any surplus funds of the public school academic facilities district pro rata to the participating school districts to be deposited by the participating school district into the school district's building fund.

The Amendment was read \_\_\_\_\_

By: Representative Cook

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Chief Clerk