

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2009-145

State of Arkansas

*As Engrossed: H4/7/09*

87th General Assembly

**A Bill**

Regular Session, 2009

HOUSE BILL 2140

By: Representative Cook

Filed with: House Interim Committee on Education  
pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

AN ACT TO PROVIDE FOR THE CONTINUED PAYMENT OF  
OBLIGATIONS ON UNMATURED BONDS OR OTHER  
OBLIGATIONS EXISTING WHEN THE TERRITORY OF ONE  
(1) SCHOOL DISTRICT IS DIVIDED AMONG MULTIPLE  
*SCHOOL DISTRICTS; TO CREATE PUBLIC SCHOOL  
ACADEMIC FACILITIES DISTRICTS AS ENTITIES TO  
ASSUME BOND* OBLIGATIONS OF SCHOOL DISTRICTS  
INVOLVED IN *MULTIPLE SCHOOL* DISTRICT  
REORGANIZATIONS; AND FOR OTHER PURPOSES.

**Subtitle**

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*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*



1 of the dissolved district or the divided district in effect at the time of  
2 the dissolution or division under this section;

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

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

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

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

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

11 (C) Annexation of a part of its real property under § 6-  
12 13-1601 et seq.; and

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

14 (A) Receives real property from a dissolved district or a  
15 divided district under this section; or

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

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

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

34 (1) Interests in:

35 (A) Real property;

36 (B) Equipment;

1 (C) Fund balances; and

2 (D) Other assets; and

3 (2) Liability for:

4 (A) Contractual obligations;

5 (B) Outstanding bond obligations; and

6 (C) Other debts and unmatured obligations.

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

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

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

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

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

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

30 (ii) Provide that the receiving district that is  
31 leasing the property shall pay a portion of the lease amount to each  
32 receiving district that assumed all or part of the bonded indebtedness for  
33 the bonded facility.

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

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

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

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

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

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

28  
29 SECTION 2. Arkansas Code Title 6 is amended to add an additional  
30 chapter to read as follows:

31 CHAPTER 28

32 PUBLIC SCHOOL ACADEMIC FACILITIES DISTRICTS

33  
34 6-28-101. Purposes.

35 (a) The purpose of this chapter is to provide for the formation of a  
36 public school academic facilities district by resolutions approved by the

1 majority of the board of directors of each school district located in the  
2 territory to be included in the public school academic facilities district.

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

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

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

10 (3) Conducting a bond election within the public school academic  
11 facilities district;

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

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

17  
18 6-28-102. Definitions.

19 As used in this chapter:

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

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

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

36 (C) School district administration buildings and

1 spaces, including related areas such as the physical plant and grounds, shall  
2 not be considered academic facilities for the purposes of this subchapter;

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

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

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

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

16  
17 6-28-103. Construction.

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

21  
22 6-28-104. Applicability of law pertaining to public school academic  
23 facilities.

24 An academic facility owned, acquired, or financed by a public school  
25 academic facilities district is subject to Arkansas law and the rules of the  
26 Commission for Arkansas Public School Academic Facilities and Transportation  
27 for the construction, maintenance, repair, and renovation of academic  
28 facilities.

29  
30 6-28-105. Formation of a public school academic facilities district.

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

36 (1) The intention to form the proposed public school academic

1 facilities district;

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

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

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

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

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

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

18 (i) A director of a participating school district;  
19 or

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

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

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

30  
31 6-28-106. Hearing on resolution.

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

36 (2) The notice shall be published in a newspaper of general

1 circulation in each county in which a participating school district is  
2 located one (1) time a week for two (2) consecutive weeks.

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

6 (2) If the state board finds that each participating school  
7 district substantially complied, the state board shall enter its order  
8 creating the public school academic facilities district and appointing the  
9 commissioners named in the resolution as the initial board of commissioners.

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

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

17  
18 6-28-107. Qualifications of commissioners -- Oath.

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

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

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

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



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

4  
5       6-28-108. Board of commissioners generally.

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

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

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

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

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

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

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

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

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

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

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

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

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

36       (5) Establish rules and regulations for the transaction of the

1 public school academic facilities district's business and for the services,  
2 use, and right to use of its facilities or services, or both, or to  
3 effectuate any purpose of this chapter;

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

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

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

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

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

13  
14 6-28-109. Interest of commissioners in purchase, acquisition, or  
15 donation.

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

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

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

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

27  
28 6-28-110. Authority to borrow money and issue negotiable bonds.

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

35 (b)(1) Bonds of a public school academic facilities district shall be  
36 authorized, offered for sale, issued and paid, and taxes levied and collected

1 for payments related to the bonds, and the proceeds of the bonds and the  
2 collected taxes deposited and held in the same manner required for a public  
3 school district under § 6-20-1201 et seq.

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

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

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

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

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

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

25  
26 6-28-111. Funds -- Deposit of proceeds.

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

31  
32 6-28-112. Sale and lease of real property.

33 (a) The board of commissioners of a public school academic facilities  
34 academic facilities district may acquire, hold, and lease real property as is  
35 necessary and proper for the purposes of the education of students residing  
36 within the public school academic facilities district or for the benefit of

1 students who reside outside of the public school academic facilities district  
2 and for the efficient administration of the participating school districts.

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

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

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

15 (d)(1) If the board of commissioners determines that any real property  
16 owned or controlled by the public school academic facilities district is not  
17 required for the present or anticipated future needs of a participating  
18 school district and that the donation of the real property would serve a  
19 beneficial educational service for the students residing within the public  
20 school academic facilities district, then the public school academic  
21 facilities district may donate property or any part thereof to a state-  
22 supported institution of higher education, a technical institute, a community  
23 college, or an educational not-for-profit organization, for any of the  
24 following limited purposes:

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

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

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

35 (2) If the public school academic facilities district donates  
36 real property to an entity under this subsection (d), then the public school

1 academic facilities district shall have the right of first refusal to  
2 reacquire the real property if the entity decides to sell or otherwise  
3 dispose of the real property.

4  
5 6-28-113. Dissolution of district.

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

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

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

17  
18  
19 /s/ Cook  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

36 Filed Date: 04/09/2009 By: CLR\VJF