

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

As Engrossed: S1/20/04
A Bill

Call Item 4

HOUSE BILL 1109

5 By: Representatives Bond, Ledbetter, Walters, Thyer, Bradford
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO ADMINISTRATIVELY REORGANIZE THE
10 EXISTING PUBLIC EDUCATION SYSTEM; AND FOR OTHER
11 PURPOSES.
12

13 **Subtitle**

14 THE PUBLIC EDUCATION REORGANIZATION ACT.
15
16

17 WHEREAS, The Arkansas Supreme Court, in the decision of Lake View
18 School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the now
19 extant system of funding public education to be unconstitutional because it
20 is both inequitable and inadequate; and
21

22 WHEREAS, The Arkansas Supreme Court set forth the test for a
23 constitutional system to be one in which the state has an “absolute duty” to
24 provide an “equal opportunity to an adequate education”,
25

26 NOW THEREFORE,

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Legislative purpose.

30 The General Assembly declares that this act is necessary to ensure the
31 delivery of an equal opportunity for an adequate education to the people of
32 Arkansas in an efficient and effective manner.
33

34 SECTION 2. Arkansas Code § 6-13-1405(a)(5), concerning procedures for
35 consolidation, is amended to read as follows:

36 (5)(A)(i) The state board shall afford the local school



1 districts in a consolidation thirty (30) days to establish an interim local
2 board to govern the resulting district pursuant to § 6-14-1406 until the next
3 school election.

4 (ii) If the consolidation is under § 6-13-1602, the
5 resulting school districts shall establish an interim board by May 31
6 immediately preceding the effective date of consolidation.

7 (B) If the local school districts fail to establish an
8 interim board, the state board shall appoint an interim local board to serve
9 until the next elected board assumes office. ~~The number of interim board~~
10 ~~positions shall be set as allowed by law.~~

11 (C)(i) The interim board shall be made up of board members
12 from the boards of directors of the affected school districts.

13 (ii) The proportion of board members from each of
14 the affected school districts shall be equal to the proportion of the student
15 population in each resulting school district that came from the affected
16 school district.

17
18 SECTION 3. Arkansas Code Title 6, Chapter 13, is amended to add an
19 additional subchapter to read as follows:

20 6-13-1601. Definitions.

21 As used in this subchapter:

22 (1) "Administrative annexation" means the joining of an affected
23 school district or a part of the school district with a receiving district;

24 (2) "Administrative consolidation" means the joining of two (2)
25 or more school districts or parts of a school district to create a new single
26 school district;

27 (3) "Affected district" means a school district that loses
28 territory or students as a result of administrative annexation or
29 consolidation;

30 (4)(A) "Average daily membership" means the total number of days
31 attended plus the total number of days absent by students in grades
32 kindergarten through twelve (K-12) during the first three (3) quarters of
33 each school year divided by the number of school days actually taught in the
34 district during that period of time rounded up to the nearest hundredth.

35 (B) Students who may be counted for average daily
36 membership are:

1 (i) Students who reside within the boundaries of the
2 school district and who are enrolled in a public school operated by the
3 district or a private school for special education students, with their
4 attendance resulting from a written tuition agreement approved by the
5 Department of Education;

6 (ii) Legally transferred students living outside the
7 district but attending a public school in the district; and

8 (iii) Students who reside within the boundaries of
9 the school district and who are enrolled in the Arkansas National Guard Youth
10 Challenge Program, so long as the students are participants in the program;

11 (5) "Consolidated average daily membership" means the sum of the
12 average daily membership for each school district included in a consolidation
13 if the average daily membership for the school district was five hundred
14 (500) or fewer for the school year immediately preceding the school year for
15 which the consolidation becomes effective;

16 (6) "Consolidated national school lunch student total" means the
17 sum of national school lunch students in each school district included in a
18 consolidation if the average daily membership for the school district was
19 five hundred (500) or fewer for the school year immediately preceding the
20 school year for which the consolidation becomes effective; and

21 (7) "National school lunch students" means those students from
22 low socio-economic backgrounds as indicated by the eligibility for free or
23 reduced-priced meals under the National School Lunch Act as calculated on
24 October 1 of each year and submitted to the Department of Education.

25 (8) "Receiving district" means a school district or districts
26 that receive territory or students, or both, from an affected district as a
27 result of administrative annexation;

28 (9) "Resulting district" means the new school district created
29 from an affected district or districts as a result of administrative
30 consolidation;

31
32 6-13-1602. Administrative consolidation list.

33 (a) By February 1, 2004, and each February 1 thereafter, the
34 Department of Education shall publish a consolidation list that includes all
35 school districts with fewer than three hundred fifty (350) students according
36 to the district's average daily membership in each of the two (2) school

1 years immediately preceding the current school year.

2 (b) If the effective date of this act is after January 12, 2004, then
3 the department shall publish the initial consolidation list for 2004 within
4 thirty (30) calendar days after the effective date of this act.

5
6 6-13-1603. Administrative reorganization.

7 (a)(1) Any school district included in the Department of Education's
8 consolidation list pursuant to § 6-13-1602 may voluntarily agree to
9 administratively consolidate with or be annexed to another district or
10 districts in accordance with the requirements and limitations of this
11 section.

12 (2)(A) Any school district on the consolidation list choosing to
13 voluntarily administratively consolidate or annex shall submit a petition for
14 approval to the State Board of Education by April 1 immediately following
15 publication of the list and shall set forth the terms of the administrative
16 consolidation or annexation agreement in the plan.

17 (B) If the petition is approved by the state board, the
18 administrative consolidation or annexation shall be completed by June 1, to
19 be effective the July 1 immediately following the publication of the list
20 required under § 6-13-1602.

21 (3) Any school district on the consolidation list that does not
22 submit a petition pursuant to subdivision (a)(2)(A) of this section or that
23 does not receive approval by the state board of a voluntary consolidation or
24 annexation petition shall be administratively consolidated or annexed by the
25 state board with or into one (1) or more school districts by June 1, to be
26 effective the July 1 immediately following the publication of the list
27 required under § 6-13-1602.

28 (4) The state board shall promptly consider petitions or move on
29 its own motion to administratively consolidate or annex a school district on
30 the consolidation list in order to enable the affected school districts to
31 reasonably accomplish any resulting administrative consolidation or
32 annexation by July 1 immediately following the publication of the list
33 required under § 6-13-1602.

34 (5) The state board shall not deny the petition for voluntary
35 administrative consolidation of any two (2) or more school districts unless:

36 (A) The provisions contained in the articles of

1 administrative consolidation would violate state or federal law; or

2 (B) The voluntary consolidation would not contribute to
3 the betterment of the education of students in the districts.

4 (b) Any school district required to be administratively consolidated
5 or annexed under this subchapter shall be administratively consolidated or
6 annexed in such a manner as to create a resulting district with an average
7 daily membership meeting or exceeding three hundred fifty (350).

8 (c) All administrative consolidations or annexations under this
9 section shall be accomplished so as not to create a school district that
10 hampers, delays, or in any manner negatively affects the desegregation of
11 another school district in this state.

12 (d) In the administratively consolidated or annexed school districts
13 created under this subchapter, the ad valorem tax rate shall be determined as
14 set forth under § 26-80-111.

15 (e) Nothing in this section shall be construed to require the closing
16 of any school or school facility.

17 (f) No school facility shall be closed by the state board or a local
18 school board until after completion of an assessment of public school
19 facilities by the Joint Committee on Educational Facilities as required by
20 Act 1181 of 2003, but in no event shall any facility be closed prior to
21 June 1, 2005.

22 (g) No administratively consolidated or annexed school district shall
23 have more than one (1) superintendent.

24 (h) No school district administratively consolidated with a school
25 district designated by the state board as being in academic or fiscal
26 distress shall be subject to academic or fiscal distress sanctions for a
27 period of three (3) years from the effective date of consolidation unless:

28 (1) The school district fails to meet minimum teacher salary
29 requirements; or

30 (2) The school district fails to comply with the Standards for
31 Accreditation of Arkansas Public Schools issued by the Department of
32 Education.

33 (i) Noncontiguous school districts may voluntarily consolidate if:

34 (1) The facilities and physical plant of each school district
35 are within the same county; and

36 (2) The state board approves the administrative consolidation.

1 (j) Contiguous districts may administratively consolidate even if they
2 are not in the same county.

3 (k) The state board shall promulgate rules to facilitate the
4 administration of this subchapter.

5 (l) The provisions of § 6-13-1406 shall govern the board of directors
6 of each resulting or receiving school district created under this subchapter.

7
8 6-13-1604. Administrative consolidation assistance funds.

9 (a) The state shall pay administrative consolidation assistance funds
10 to each school district that:

11 (1) Is administratively consolidated or annexed by the State
12 Board of Education under § 6-13-1603; or

13 (2)(A) Has an average daily membership of at least three hundred
14 fifty (350) and no more than five hundred (500) for each of the two (2)
15 school years preceding the school year in which the administrative
16 consolidation or annexation petition is filed; and

17 (B) Voluntarily petitions and receives approval from the
18 state board to administratively consolidate or annex prior to July 1, 2004.

19 (b) Administrative consolidation assistance funds shall be paid in an
20 amount equal to:

21 (1) Eight hundred dollars (\$800) multiplied times the
22 consolidated average daily membership; plus

23 (2) Seven hundred dollars (\$700) multiplied times the
24 consolidated national lunch student total.

25 (c)(1) Administrative consolidation assistance funds may be used by
26 the school districts for any purpose.

27 (2) However, the state board by rule may require funds to be
28 expended on the construction or improvement of school facilities.

29 (d) The funds shall be paid to the resulting administratively
30 consolidated or annexed school district during the first year of the
31 consolidated district's existence.

32
33 SECTION 4. Immediately upon the effective date of this act, the Chief
34 Fiscal Officer of the State shall transfer on his books and those of the
35 State Treasurer and the Auditor of the State the sum of fifty-eight million
36 two hundred twenty-six thousand nine hundred twenty-eight dollars

1 (\$58,226,928) from funds received from the Jobs and Growth Tax Relief
2 Reconciliation Act of 2003, Public Law 108-27 to the Department of Education
3 Public School Fund Account there to be used for the consolidation incentive
4 provided in § 6-13-1604.

5
6 SECTION 5. Arkansas Code Title 6, Chapter 20, Subchapter 6 is amended
7 to add an additional section to read as follows:

8 6-20-602. Isolated schools.

9 (a) Any school qualifying as an isolated school under Arkansas law
10 that is in a school district subject to administrative consolidation,
11 annexation, or reorganization under this act shall remain open under the
12 resulting district.

13 (b) Funding for isolated schools shall be expended by the school
14 district only on operation, maintenance, and other expenses of the isolated
15 school.

16
17 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
18 General Assembly of the State of Arkansas that the Arkansas Supreme Court in
19 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the
20 now existing system of education to be unconstitutional because it is both
21 inequitable and inadequate; and the Arkansas Supreme Court set forth the test
22 for a constitutional system to be one in which the State has an “absolute
23 duty” to provide an “equal opportunity to an adequate education”; and the
24 Arkansas Supreme Court instructed the General Assembly to define and provide
25 what is necessary to provide an adequate and equitable education for the
26 children of Arkansas. Therefore, an emergency is declared to exist and this
27 act being immediately necessary for the preservation of the public peace,
28 health, and safety shall become effective on:

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

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

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

35
36 /s/ Bond