

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

As Engrossed: S2/2/04
A Bill

Call Item 4

SENATE BILL 83

5 By: Senator Wilkins
6
7

For An Act To Be Entitled

9 AN ACT TO CREATE A REDUCTION IN FORCE POLICY FOR
10 TEACHERS AND CLASSIFIED EMPLOYEES; AND FOR OTHER
11 PURPOSES.
12

Subtitle

14 AN ACT TO CREATE A REDUCTION IN FORCE
15 POLICY FOR TEACHERS AND CLASSIFIED
16 EMPLOYEES.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 6, Chapter 17, Subchapter 2, is amended
22 to add an additional section to read as follows:

23 6-17-211. Reduction in Force – Lay-offs.

24 (a) For purposes of this section, the following definitions shall
25 apply:

26 (1) “Certification area” means grade levels or subject area for
27 which the state provides a license to teach;

28 (2) “Classified employee” means a nonsupervisory employee
29 holding a position for which the employee is not required by law to hold a
30 license issued by the State Board of Education and whose salary is on a
31 support or classified salary schedule;

32 (3) “Consolidation” means any reorganization of a school
33 district effective on or before July 1, 2004, either voluntarily or
34 involuntarily under this section as provided by law;

35 (4) “Grade level” means:

36 (A) Prekindergarten;



1 (B) Elementary;

2 (C) Middle or junior high; and

3 (D) Senior High;

4 (5) "New school district" means the resulting school district
5 after consolidation;

6 (6) "Seniority" means the total uninterrupted number of years of
7 employment as a teacher or as a classified employee in the school districts
8 participating in a consolidation effort as defined in this subchapter. For
9 purposes of this section:

10 (A) Teachers may not count service as a classified
11 employee towards seniority and classified employees may not count service as
12 a teacher towards seniority;

13 (B) A semester under contract shall be counted as a year.
14 Less than a semester under contract shall not be recognized for seniority;
15 and

16 (C)(1) For a year to be interrupted, there must have been
17 a severance of any formal employer-employee relationship between the teacher
18 and the school district such that, at the time, there was no expectation that
19 the teacher would return to employment.

20 (2) Absences for maternity leave, the Family Medical
21 Leave Act, annual leave, sick leave, and military leave do not constitute an
22 interruption in employment;

23 (7) "Supervisory employee" means any individual employed by the
24 school district, other than the superintendent and assistant superintendent,
25 having authority, in the interest of the employer, to hire, transfer,
26 suspend, lay off, recall, promote, discharge, assign, reward, or discipline
27 other employees, the responsibility to evaluate them, or to adjust their
28 grievances or effectively to recommend such action and the superintendent
29 shall develop objective criteria for the reduction in force of any
30 supervisory employees; and

31 (8) "Teacher" means a nonsupervisory employee holding a position
32 for which the employee is required to hold a license from the state board
33 whose salary is determined by the teacher salary schedule.

34 (b)(1) In the event of a consolidation effective on or before July 1,
35 2004, the school districts to be consolidated shall not implement a reduction
36 in force and shall not nonrenew or terminate any teacher's or classified

1 employee's contract based upon the upcoming consolidation.

2 (2) The new school district shall become liable for all teacher
3 and classified employee contracts of the school districts being consolidated.

4 (c)(1) If prior to June 30, 2006, the new school district determines
5 that it is necessary to reduce its staff of teachers or classified employees,
6 or both, and that the reduction cannot be accomplished through attrition,
7 then the new school district shall follow the provisions of this section.

8 (2)(A) Between July 1, 2004 and July 1, 2006, this subchapter
9 shall replace and supersede any existing or to be enacted school district
10 policy that may apply, and any personnel policy or any other school district
11 policy, procedure, or process concerning a reduction in force triggered by a
12 consolidation of the school districts shall be null and void, and shall not
13 be legally binding on any party.

14 (B) The provisions of section shall be considered to be
15 incorporated as terms of the contracts, entered into after the effective date
16 of this section, of classified employees and teachers as defined under
17 subsection (a) of this section and shall be binding upon the classified
18 employees and teachers who are employed in a district subject to the
19 reduction in force procedure under this section and the district.

20 (3) However, nothing in this section shall exempt a new school
21 district from complying with The Teacher Fair Dismissal Act of 1983, § 6-17-
22 1501 et seq., as may be amended, the Public School Employee Fair Hearing Act,
23 § 6-17-1701 et seq., as may be amended, or § 6-13-1603, when implementing the
24 reduction in force.

25 (d) For both teachers and classified employees, the reduction in force
26 shall be accomplished through attrition as much as possible.

27 (e)(1) When a new school district determines that a reduction in force
28 is necessary, the superintendent shall approve a list of position reductions
29 by school, grade level, certification area, and classified job positions.

30 (2) All employees shall receive a copy of the list of necessary
31 job reductions.

32 (3) The list of necessary job reductions must be determined and
33 distributed to the employees before the listing of personnel with point
34 totals is determined.

35 (f)(1) If the reduction in force cannot be accomplished through
36 attrition, then points will be assigned to each teacher based upon data as of

1 July 1 of the year prior to the time in which the reduction in force is to
2 take place as follows:

3 (A) One (1) point shall be given for each year of
4 seniority;

5 (B) Additional points for graduate degrees, but only one
6 (1) applies:

7 (i) Two (2) points shall be given for an earned
8 master's degree with a maximum of two (2) points;

9 (ii) Three (3) points shall be given for a master's
10 degree plus thirty (30) additional graduate level hours with a maximum of
11 three (3) points;

12 (iii) Four (4) points shall be given for an
13 Educational Specialist degree with a maximum of four (4) points; and

14 (iv) Five (5) points shall be given for a doctorate
15 degree with a maximum of five (5) points;

16 (C) Six (6) points shall be given for certification by the
17 National Board of Professional Teaching Standards;

18 (D) One (1) point shall be given for a trained mentor
19 teacher;

20 (E) One (1) point shall be given for a certified Praxis
21 assessor;

22 (F) One (1) point shall be given for two (2) or more
23 academic content areas of endorsement as identified by the state board;

24 (G) One (1) point shall be given for certification or
25 teaching in a state board-approved shortage area; and

26 (H) One (1) point shall be given for multiple areas and
27 levels of licensure as identified by the state board.

28 (2)(A) All points assigned shall be verified by documents on
29 file with the new school district.

30 (B) Each teacher's points shall be verified by documents
31 on file with the new school district.

32 (C)(i) Each teacher's points shall be added and teachers
33 shall be ranked by the total points from highest to lowest in their
34 certification areas.

35 (ii) All teachers in the new school district shall
36 receive a listing of personnel and point totals.

1 (D)(i) Each teacher shall be informed when he or she
2 receives the list that he or she has ten 10 days from receipt within which to
3 file a grievance directly with the superintendent.

4 (ii) The superintendent shall have five (5) days
5 from receipt of the grievance to make a decision.

6 (iii) If the teacher is not satisfied with the
7 decision, he or she shall have five (5) days from receipt of the decision to
8 file an appeal with the local school board.

9 (iv) The local school board shall set a hearing as
10 soon as possible where all parties can attend.

11 (3) In each certification area, those teachers with fewest
12 points will be laid off first with the following provisos:

13 (A) A teacher with full certification in a position shall
14 prevail over a teacher with greater points; and

15 (B) If points assigned to two (2) or more teachers are
16 equal, the teacher with the earliest date of employment in an Arkansas public
17 school shall prevail.

18 (4) If a teacher is laid off from employment under this section,
19 he or she shall be offered an opportunity to fill a vacancy for which he or
20 she is qualified, for a period of up to two (2) years. The laid-off teacher
21 shall be recalled for a period of two (2) years in reverse order of the
22 layoff to any position for which he or she is qualified. A teacher's refusal
23 of a position shall end the district's obligation to place the laid-off
24 teacher.

25 (g)(1) In the event of a necessary reduction in force under this
26 section of classified employees, the school district shall supply all
27 classified employees with a list of employees and their length of service.

28 (2) Each classified employee shall be informed when he or she
29 receives the list that he or she has ten (10) days from receipt within which
30 to file a grievance directly with the superintendent.

31 (3)(A) The superintendent shall have five (5) days from receipt
32 of the grievance to make a decision.

33 (B) A certified employee shall have five (5) days from
34 receipt of the decision to file an appeal with the local school board.

35 (C) The local school board shall set a hearing as soon as
36 possible where all parties can attend.

1 (4) The school district shall first lay off probationary
2 classified employees, and then the classified employees with the least
3 seniority in the identified job classification.

4 (5) For two (2) years following the reduction, a classified
5 employee whose position has been eliminated due to a reduction under this
6 section shall have the right to assume a position for which he or she is
7 qualified that is held by the least senior classified employee with the same
8 job classification and length of contract.

9 (6) A laid-off classified employee shall be recalled for a
10 period of two (2) years in reverse order of the layoff to any position for
11 which he or she is qualified. Any classified employee's refusal of a job
12 shall end the district's obligation to place the classified employee.

13 (h) Laid-off teachers or classified employees with skills in the area
14 of a vacant position shall be given first consideration. If more than one
15 (1) teacher or classified employee is qualified for the vacant position, the
16 teacher or classified employee with the greatest seniority shall be employed
17 first.

18 (i) The provisions of this section shall expire on July 1, 2006.
19 Except for the recall provisions in subdivision (f)(4) and subsections (g)
20 and (h) of this section.

21 (j) The Arkansas Employment Security Department shall be available to
22 assist laid-off employees as may be appropriate.

23 (k) The provisions of this section shall not be construed to interfere
24 with or restrict the authority of a school district to comply with applicable
25 court orders regarding personnel matters.

26
27 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
28 General Assembly of the State of Arkansas that the Arkansas Supreme Court in
29 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the
30 current system of education in the state to be unconstitutional because it is
31 both inequitable and inadequate; and the Arkansas Supreme Court set forth the
32 test for a constitutional system to be one in which the state has an
33 "absolute duty" to provide an "equal opportunity to an adequate education";
34 the Arkansas Supreme Court instructed the General Assembly to undertake
35 actions as necessary to provide an opportunity for an adequate and equitable
36 education for the children of Arkansas; and the provisions of this bill are

1 necessary steps toward accomplishing that goal. Therefore, an emergency is
2 declared to exist and this act being immediately necessary for the
3 preservation of the public peace, health, and safety shall become effective
4 on:

- 5 (1) The date of its approval by the Governor;
6 (2) If the bill is neither approved nor vetoed by the Governor,
7 the expiration of the period of time during which the Governor may veto the
8 bill; or
9 (3) If the bill is vetoed by the Governor and the veto is
10 overridden, the date the last house overrides the veto.

11
12 /s/ Wilkins
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36