

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

HOUSE BILL 2952

By: Representatives Adams, Thomason

For An Act To Be Entitled

AN ACT TO ALLOW SCHOOL DISTRICTS TO APPEAL
CERTAIN DECISIONS OF THE STATE BOARD OF EDUCATION
TO A CIRCUIT COURT IN PULASKI COUNTY OR THE
CIRCUIT COURT IN THE COUNTY WHERE THE SCHOOL
DISTRICT MAINTAINS ITS PRINCIPAL ADMINISTRATIVE
OFFICE; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO ALLOW SCHOOL DISTRICTS TO
APPEAL CERTAIN DECISIONS OF THE STATE
BOARD OF EDUCATION TO A CIRCUIT COURT IN
PULASKI COUNTY OR THE COUNTY WHERE THE
SCHOOL DISTRICT MAINTAINS ITS PRINCIPAL
ADMINISTRATIVE OFFICE.

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

SECTION 1. Arkansas Code § 6-13-1410 is amended to read as follows:
6-13-1410. Appeal and election.

(a) The decision of the State Board of Education regarding a
consolidation or annexation shall be final with no further right of appeal
except that an aggrieved school district may appeal to Pulaski County Circuit
Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et
seq., or the circuit court having jurisdiction in the location where the
school district maintains its principal administrative office as a court of
original jurisdiction for a trial on whether the board's decision meets the
arbitrary, capricious, or discriminatory standard. The court shall receive



any new evidence offered by any party.

(b) Any appeal shall be filed with the court no later than sixty (60) days following the state board's final decision.

SECTION 2. Arkansas Code § 6-15-203 is amended to read as follows:

6-15-203. Notification of failure to meet standards of accreditation - Appeal.

(a) The Department of Education shall annually notify all schools or school districts failing to meet standards for accreditation for elementary and secondary schools not later than May 15 of each year of this determination.

(b)(1) In the event that a school district affected by this subchapter believes the department has improperly determined that a school or school district fails to meet the standards for accreditation, the school district shall have a right of appeal thereafter to the State Board of Education.

(2) Any appeal shall be held in an open hearing, and the decision of the state board shall be in open session.

(3) Appeals must be filed not later than May 30 following the May 15 determination of accreditation status, and the state board hearing must be held prior to August 15 of the same calendar year.

(4) The state board may confirm the classification of a local school or school district as determined by the department, or it may sustain the appeal of the district.

(5)(A) An aggrieved school district may appeal the ruling of the state board to Pulaski County Circuit Court ~~pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~ or the circuit court having jurisdiction in the location where the school district maintains its principal administrative office as a court of original jurisdiction for a trial on whether the board's ruling meets the arbitrary, capricious, or discriminatory standard. The court shall receive any new evidence offered by any party.

(B) Any appeal shall be filed with the court no later than sixty (60) days following the state board's final ruling.

SECTION 3. Arkansas Code § 6-15-428 is amended to read as follows:

6-15-428. Academic distress identification, notification,

1 classification, and appeal.

2 (a) The school board president and superintendent of a school district
3 identified by the Department of Education as being in academic distress shall
4 be notified in writing by the department via certified mail, return receipt
5 requested, and shall have a right of appeal to the State Board of Education.

6 (b) Any school district identified in academic distress may appeal to
7 the state board by filing a written appeal with the Director of the
8 Department of Education via certified mail, return receipt requested, within
9 thirty (30) calendar days of receipt of the written notice of academic
10 distress status from the department.

11 (c)(1) The state board shall hear the appeal of the school district
12 within sixty (60) days of receipt of the written appeal in the director's
13 office.

14 (2)(A) The state board's determination shall be final except
15 that a school district may appeal to Pulaski County Circuit Court ~~under the~~
16 ~~Arkansas Administrative Procedure Act, § 25-15-201 et seq., or the circuit~~
17 court having jurisdiction in the location where the school district maintains
18 its principal administrative office as a court of original jurisdiction for a
19 trial on whether the board's determination meets the arbitrary, capricious,
20 or discriminatory standard. The court shall receive any new evidence offered
21 by any party.

22 (B) Any appeal shall be filed with the court no later than
23 sixty (60) days following the state board's final determination.

24 (d) Those school districts identified by the department as being in
25 academic distress shall be classified as school districts in academic
26 distress upon final determination by the state board.

27
28 SECTION 4. Arkansas Code § 6-20-1905 is amended to read as follows:
29 6-20-1905. Notification and appeal.

30 (a) The Department of Education shall provide written notice, via
31 certified mail, return receipt requested, to the president of the school
32 board and the superintendent of each school district identified as being in
33 fiscal distress.

34 (b) Any school district identified in fiscal distress status may
35 appeal to the State Board of Education by filing a written appeal with the
36 office of the Director of the Department of Education by certified mail,

1 return receipt requested, within thirty (30) days of receipt of notice of
2 identified fiscal distress status from the department.

3 (c) The state board shall hear the appeal within sixty (60) days of
4 receipt of the written notice of appeal from the school district.

5 (d) The written appeal shall state in clear terms the reason why the
6 school district should not be classified as in fiscal distress.

7 (e) Notwithstanding any appeal rights in this subchapter, no appeal
8 shall stay the department's authority to take action to protect the fiscal
9 integrity of any school district identified as in fiscal distress.

10 (f)(1) The decision of the state board shall be a final order, and
11 there is no further right of appeal except that the school district may
12 appeal to Pulaski County Circuit Court ~~pursuant to the Arkansas~~
13 ~~Administrative Procedure Act, § 25-15-201 et seq.~~ or the circuit court having
14 jurisdiction in the location where the school district maintains its
15 principal administrative office as a court of original jurisdiction for a
16 trial on whether the board's decision meets the arbitrary, capricious, or
17 discriminatory standard. The court shall receive any new evidence offered by
18 any party.

19 (2) Any appeal shall be filed with the court no later than sixty
20 (60) days following the state board's final decision.

21
22 SECTION 5. Arkansas Code § 6-20-1910 is amended to read as follows:

23 6-20-1910. State board actions.

24 (a) After a public hearing, the State Board of Education shall
25 consolidate, annex, or reconstitute the school district in fiscal distress to
26 another school district or school districts upon a majority vote of a quorum
27 of the members of the state board as permitted or required by this
28 subchapter.

29 (b) The state board has exclusive jurisdiction to determine the
30 boundary lines of the receiving or resulting school district and to allocate
31 assets and liabilities of the district.

32 (c)(1) The decision of the state board shall be final with no further
33 right of appeal except that a school district may appeal to Pulaski County
34 Circuit Court ~~pursuant to the Arkansas Administrative Procedure Act, § 25-15-~~
35 ~~201 et seq.~~ or the circuit court having jurisdiction in the location where
36 the school district maintains its principal administrative office as a court

1 of original jurisdiction for a trial on whether the board's decision meets
2 the arbitrary, capricious, or discriminatory standard. The court shall
3 receive any new evidence offered by any party.

4 (2) Any appeal shall be filed with the court no later than sixty
5 (60) days following the state board's final decision.

6
7 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that the Arkansas Supreme Court in
9 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the
10 current system of education to be unconstitutional because it is both
11 inequitable and inadequate; and the Arkansas Supreme Court set forth the test
12 for a constitutional system to be one in which the state has an "absolute
13 duty" to provide an "equal opportunity to an adequate education"; the
14 Arkansas Supreme Court instructed the General Assembly to undertake actions
15 as necessary to provide an opportunity for an adequate and equitable
16 education for the children of the State of Arkansas; and the provisions of
17 this act are necessary steps toward accomplishing that goal. Therefore, an
18 emergency is declared to exist and this act being immediately necessary for
19 the preservation of the public peace, health, and safety shall become
20 effective on:

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

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

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