

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.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H4/7/09
A Bill

HOUSE BILL 2140

5 By: Representative Cook
6
7

8 **For An Act To Be Entitled**

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

18
19 **Subtitle**

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

25
26
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 *SECTION 1. Arkansas Code § 6-20-1214 is amended to read as follows:*
30 *6-20-1214. Obligations on district dissolution or division.*

31 *(a) As used in this section:*

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

36 *(2) "Bonded facility" means a school building for which a public*



1 school district issued bonds under this subchapter;

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

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

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

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

8 (C) Annexation of a part of its real property under § 6-
 9 13-1601 et seq.; and

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

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

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

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

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

31 (1) Interests in:

32 (A) Real property;

33 (B) Equipment;

34 (C) Fund balances; and

35 (D) Other assets; and

36 (2) Liability for:

1 (A) Contractual obligations;

2 (B) Outstanding bond obligations; and

3 (C) Other debts and unmatured obligations.

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

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

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

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

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

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

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

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

34 (e) If a receiving district is a participating school district in a
35 public school academic facilities district formed under § 6-28-201 et seq.,
36 the state board may allow the public school academic facilities district to

1 assume outstanding bond obligations on academic facilities within a dissolved
 2 or divided district under this section.

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

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

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

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

25
 26 SECTION 2. Arkansas Code Title 6 is amended to add an additional
 27 chapter to read as follows:

28 CHAPTER 28

29 PUBLIC SCHOOL ACADEMIC FACILITIES DISTRICTS

30
 31 6-28-101. Purposes.

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

36 (b) A public school academic facilities district may be formed for the

1 purposes of:

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

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

7 (3) Conducting a bond election within the public school academic
8 facilities district;

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

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

14
15 6-28-102. Definitions.

16 As used in this chapter:

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

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

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

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

36 (D) Buildings or spaces, including related areas

1 such as the physical plant and grounds, used for prekindergarten education
2 are considered academic facilities for purposes of this chapter, but are not
3 subject to § 6-28-104.

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

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

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

13
14 6-28-103. Construction.

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

18
19 6-28-104. Applicability of law pertaining to public school academic
20 facilities.

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

26
27 6-28-105. Formation of a public school academic facilities district.

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

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

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

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

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

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

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

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

15 (i) A director of a participating school district;
16 or

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

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

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

27
28 6-28-106. Hearing on resolution.

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

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

36 (b)(1) After the last public hearing is conducted, the State Board of

1 Education shall determine whether the participating school districts
2 substantially complied with the provisions of this chapter.

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

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

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

14
15 6-28-107. Qualifications of commissioners -- Oath.

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

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

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

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

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

1
2 6-28-108. Board of commissioners generally.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10
11 6-28-109. Interest of commissioners in purchase, acquisition, or
12 donation.

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

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

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

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

24
25 6-28-110. Authority to borrow money and issue negotiable bonds.

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

32 (b)(1) Bonds of a public school academic facilities district shall be
33 authorized, offered for sale, issued and paid, and taxes levied and collected
34 for payments related to the bonds, and the proceeds of the bonds and the
35 collected taxes deposited and held in the same manner required for a public
36 school district under § 6-20-1201 et seq.

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

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

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

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

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

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

22
23 6-28-111. Funds -- Deposit of proceeds.

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

28
29 6-28-112. Sale and lease of real property.

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

36 (b)(1) The board of commissioners may permit the use of an academic

1 facility owned by the public school academic facilities district for social,
2 civic, and recreational purposes or any other community purpose, including
3 without limitation any lawful meetings of citizens residing within the public
4 school academic facilities district, provided such meetings do not interfere
5 with the regular use of the facility by a school located within the public
6 school academic facilities district.

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

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

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

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

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

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

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

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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.

/s/ Cook