

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

A Bill

HOUSE BILL 2170

4
5 By: Representatives Carnine, Abernathy, B. Wilkins, G. Smith, McCrary
6 By: Senator J. Jeffress

For An Act To Be Entitled

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10 AN ACT TO PROVIDE INTERVENTION AND PROFESSIONAL
11 CONSULTATION UPON EARLY INDICATORS OF THE FISCAL
12 DISTRESS OR FACILITIES DISTRESS OF A PUBLIC
13 SCHOOL DISTRICT; AND FOR OTHER PURPOSES.

Subtitle

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16 TO PROVIDE FOR INTERVENTION AND
17 PROFESSIONAL CONSULTATION UPON EARLY
18 INDICATORS OF THE FISCAL DISTRESS OR
19 FACILITIES DISTRESS OF A PUBLIC SCHOOL
20 DISTRICT.

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

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25 SECTION 1. Arkansas Code § 6-20-1904 is amended to read as follows:
26 6-20-1904. Indicators of fiscal distress.

27 (a) ~~Any~~ A school district meeting any of the following criteria may be
28 identified by the Department of Education to be a school district in fiscal
29 distress upon final approval by the State Board of Education:

30 (1)(A) A declining balance determined to jeopardize the fiscal
31 integrity of a school district.

32 (B) However, capital outlay expenditures for academic
33 facilities from a school district balance shall not be used to put the school
34 district in fiscal distress;

35 (2) ~~Any~~ An act or violation determined to jeopardize the fiscal
36 integrity of a school district, ~~including, but not limited to~~ including



1 without limitation:

2 (A) Material failure to properly maintain school
3 facilities;

4 (B) Material violation of local, state, or federal fire,
5 health, or safety code provisions or law;

6 (C) Material violation of local, state, or federal
7 construction code provisions or law;

8 (D) Material state or federal audit exceptions or
9 violations;

10 (E) Material failure to provide timely and accurate
11 legally required financial reports to the department, the Division of
12 Legislative Audit, the General Assembly, or the Internal Revenue Service;

13 (F) Insufficient funds to cover payroll, salary,
14 employment benefits, or legal tax obligations;

15 (G) Material failure to meet legally binding minimum
16 teacher salary schedule obligations;

17 (H) Material failure to comply with state law governing
18 purchasing or bid requirements;

19 (I) Material default on any school district debt
20 obligation;

21 (J) Material discrepancies between budgeted and actual
22 school district expenditures;

23 (K) Material failure to comply with audit requirements; or

24 (L) Material failure to comply with any provision of the
25 Arkansas Code that specifically places a school district in fiscal distress
26 based on noncompliance; or

27 (3) Any other fiscal condition of a school district deemed to
28 have a detrimental negative impact on the continuation of educational
29 services by that school district.

30 (b)(1) By July 31 of each year, the department shall report to the
31 superintendent of a school district if the department is aware that the
32 school district has experienced two (2) or more indicators of fiscal distress
33 in one (1) school year that the department deems to be at a nonmaterial
34 level, but that without intervention could place the district in fiscal
35 distress.

36 (2) The superintendent of a school district shall report to the

1 department if the superintendent is aware the school district has experienced
 2 two (2) or more indicators of fiscal distress in one (1) school year that the
 3 superintendent deems to be at a nonmaterial level, but that without
 4 intervention could place the district in fiscal distress.

5 (3)(A) Before a school district is identified as being in fiscal
 6 distress and before an indicator of fiscal distress is deemed to be material,
 7 the department and the superintendent shall review all data related to the
 8 nonmaterial indicators of fiscal distress.

9 (B) After the review, if the department finds the school
 10 district is experiencing fiscal distress at a nonmaterial level, the
 11 department shall provide a notice of the deficiencies within thirty (30) days
 12 of the determination of the nonmaterial fiscal deficiencies to:

13 (A) The superintendent of the school district; and

14 (B)(i) The board of directors of the school district.

15 (ii) The board of directors shall place on the
 16 agenda for the next regularly scheduled school board meeting a discussion of
 17 the notice of nonmaterial fiscal deficiencies.

18 (4)(A) The department shall require the school district to
 19 prepare a fiscal improvement plan for the correction or remediation of the
 20 deficiencies and for the prevention of the nonmaterial fiscal deficiencies in
 21 the future.

22 (B) The following persons shall participate in developing
 23 the fiscal improvement plan:

24 (i) The superintendent of the school district;

25 (ii) The general business manager or treasurer of
 26 the school district; and

27 (iii) Each member of the board of directors of the
 28 school district.

29 (C)(i)(a) The department shall advise the school district
 30 to solicit a consultant's services to assist with developing the fiscal
 31 improvement plan.

32 (b) A school district shall select a
 33 consultant who the board of directors may reasonably expect to:

34 (1) Possess knowledge and expertise in
 35 the subject matter covered by the fiscal improvement plan; and

36 (2) Exercise the degree of skill and

1 learning ordinarily possessed and used by members of the consultant's
 2 profession in good standing and engaged in the same area of expertise.

3 (ii) A school district is not required to contract
 4 for consulting services under this subdivision (b)(4)(C), but is encouraged
 5 to consult with knowledgeable individuals, including without limitation, the
 6 Division of Legislative Audit, before filing the fiscal improvement plan with
 7 the department.

8 (4) The department shall identify the nonmaterial fiscal
 9 deficiencies in the annual school performance report for the school district
 10 and include the status of the fiscal improvement plan developed under this
 11 subsection (b).

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 13 SECTION 2. Arkansas Code § 6-21-811(b), concerning facilities distress
 14 indicators, is amended to read as follows:

15 (b)(1) The division shall provide written notice, via certified mail,
 16 return receipt requested, to the president of the school board of directors
 17 and the superintendent of the public school or school district identified as
 18 being in facilities distress.

19 (c)(1) By July 31 of each year, the division shall report to the
 20 superintendent of a school district if the division is aware the school
 21 district has experienced two (2) or more indicators of facilities distress in
 22 one (1) school year that the division deems to be nonmaterial, but that
 23 without intervention could place the district in facilities distress.

24 (2) The superintendent of a school district shall report to the
 25 division if the superintendent is aware the school district has experienced
 26 two (2) or more indicators of facilities distress in one (1) school year that
 27 the superintendent deems to be nonmaterial, but that without intervention
 28 could place the district in facilities distress.

29 (3)(A) Before a school district is identified as being in
 30 facilities distress and before an indicator of facilities distress is deemed
 31 to be material, the division and the superintendent shall review all data
 32 related to the nonmaterial indicators of facilities distress.

33 (B) After the review, if the division finds the school
 34 district is experiencing facilities distress at a nonmaterial level, the
 35 division shall provide a notice of the deficiencies within thirty (30) days
 36 of the determination of the nonmaterial facilities deficiencies to:

1 (A) The superintendent of the school district; and

2 (B)(i) The board of directors of the school district.

3 (ii) The board of directors shall place on the
 4 agenda for the next regularly scheduled school board meeting a discussion of
 5 the notice of nonmaterial facilities deficiencies.

6 (4)(A) The division shall require the school district to prepare
 7 a facilities improvement plan for the correction or remediation of the
 8 deficiencies and for the prevention of the nonmaterial facilities
 9 deficiencies in the future.

10 (B) The following persons shall participate in developing
 11 the facilities improvement plan:

12 (i) The superintendent of the school district;

13 (ii) The person responsible for the management of
 14 the academic facilities that are experiencing the nonmaterial deficiencies;
 15 and

16 (iii) Each member of the board of directors of the
 17 school district.

18 (C)(i) The department shall advise the school district to
 19 solicit a consultant’s services to assist with developing the facilities
 20 improvement plan.

21 (ii) A school district shall select a consultant who
 22 the board of directors may reasonably expect to:

23 (a) Possess knowledge and expertise in the
 24 subject matter covered by the facilities improvement plan; and

25 (b) Exercise the degree of skill and learning
 26 ordinarily possessed and used by members of the consultant’s profession in
 27 good standing and engaged in the same area of expertise.

28 (5)(A) By August 1 of each year, the division shall report to
 29 the commission on the status of the nonmaterial facilities deficiencies and
 30 the school district’s facilities improvement plan developed under this
 31 subsection (c).

32 (B) If any condition of an academic facility raises a
 33 significant health or safety issue, the superintendent or person responsible
 34 for the management of the academic facility in the school district where the
 35 academic facility is located shall immediately notify:

36 (A) The division; and

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(B)(i) The board of directors of the school district.

(ii) The board of directors shall place on the agenda for the next regularly scheduled school board meeting a discussion of the notice of deficiencies.