

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H3/16/11

A Bill

HOUSE BILL 1877

5 By: Representative Pierce
6

For An Act To Be Entitled

8 AN ACT TO ENSURE THAT SCHOOL DISTRICTS BELOW A
9 SPECIFIC STUDENT ACHIEVEMENT LEVEL USE PUBLIC SCHOOL
10 FUNDING TO IMPROVE STUDENT ACADEMIC ACHIEVEMENT; TO
11 AMEND THE ACADEMIC DISTRESS STATUTES; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO ENSURE THAT SCHOOL DISTRICTS BELOW A
16 SPECIFIC STUDENT ACHIEVEMENT LEVEL USE
17 PUBLIC SCHOOL FUNDING TO IMPROVE STUDENT
18 ACADEMIC ACHIEVEMENT.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 *SECTION 1. Arkansas Code § 6-20-1210(a), concerning the use of surplus*
25 *revenues in the building fund, is amended to read as follows:*

26 *(a)(1) ~~No part of any building~~ Except as provided under subdivision*
27 *(a)(2) of this section, the building fund shall not be used for any other*
28 *purpose in any year than to pay the bonds and interest ~~thereon~~ on the bonds*
29 *maturing that year and any that may be past due, until the maturities are*
30 *paid in full or until the funds are set aside to pay the full amount of the*
31 *bonds*.

32 *(2) ~~provided, the~~ The surplus in any year over and above the*
33 *amount necessary to pay bonds and interest maturing that year, whether*
34 *~~hereafter or heretofore issued,~~ issued before or after that year, may be used*
35 *by the respective school districts for any other school purposes.*

36 *(3) Any surplus funds under this subsection that are deposited*



1 into a fund account that contains foundation funding, as that term is defined
2 in § 6-20-2308, are unrestricted, unreserved, general funds subject to the
3 apportionment under § 6-20-2308.
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5 SECTION 2. Arkansas Code § 6-20-1228(a), concerning the use of
6 refunding of bonded indebtedness for the maintenance and operation of
7 schools, is amended to read as follows:

8 (a)(1) Any school district of this state ~~is authorized to~~ may sell
9 bonds in an amount not to exceed an amount equal to the principal amount of
10 the bonds refunded as originally issued for the purposes of refunding all or
11 any part of its bonded indebtedness outstanding at the time of passage of
12 this act, and of providing funds for maintaining and operating schools in the
13 school district. Such bonds may be sold with the privilege of conversion as
14 provided in this subchapter.

15 (2) The funds used for providing for the maintenance and
16 operation of schools under this subsection that are deposited into a fund
17 account that contains foundation funding, as that term is defined in § 6-20-
18 2308, are unrestricted, unreserved, general funds subject to the
19 apportionment under § 6-20-2308.
20

21 SECTION 3. Arkansas Code § 6-20-1904(a)(1), concerning the indicators
22 of fiscal distress of a school district, is amended to read as follows:

23 (a) A school district meeting any of the following criteria may be
24 identified by the Department of Education to be a school district in fiscal
25 distress upon final approval by the State Board of Education:

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

28 (B) ~~However, capital outlay~~ The following expenditures for
29 ~~academic facilities~~ determine that a declining balance is an indicator of
30 ~~from a school district balance shall not be used to put~~ fiscal distress;
31 ~~the school district in~~

32 (i) Capital outlay expenditures for academic
33 facilities; and

34 (ii) Expenditures required or approved under § 6-20-
35 2308;
36

1 SECTION 4. Arkansas Code § 6-20-2202(d)(1)(A)(ii), concerning the
2 budget and expenditure report, is amended to read as follows:

3 (ii)(a) Information on fund balances maintained by
4 the school district, open-enrollment public charter school, or education
5 service cooperative, ~~including, but not limited to,~~ including without
6 limitation the:

7 (1) Sources of the funds maintained as
8 fund balances, ~~to the extent practicable~~ including without limitation
9 foundation funding as defined under § 6-20-2308;

10 (2) Reasons for maintaining, instead of
11 spending, the fund balances;

12 (3)(A) Amount of funds transferred
13 between various funds during the past year.

14 (B) The school district, open-
15 enrollment public charter school, and education service cooperative shall
16 identify the funds transferred between various funds and the amount of funds
17 transferred; ~~and~~

18 (4) Amount of fund balances dedicated
19 for the construction, maintenance, or repair of academic or athletic
20 facilities;

21 (5) Amount of fund balances containing
22 surplus funds from a building fund under § 6-20-1210;

23 (6) Amount of fund balances containing
24 revenues from the refunding of bonds under § 6-20-1228; and

25 (7) Amount of fund balances containing
26 revenues from a dedicated operation and maintenance millage under § 26-80-
27 110.

28 (b) The Department of Education shall
29 promulgate rules that require reporting of fund balances sufficient for an
30 auditor to verify whether funds allocated for educational purposes,
31 ~~including, but not limited to,~~ including without limitation student academic
32 needs and the maintenance and operation of public school district facilities,
33 are used for their intended purposes or retained by the school district in
34 its fund balances.

35
36 SECTION 5. Arkansas Code § 6-20-2305(a)(1), concerning state

1 foundation funding aid for school districts, is amended to read as follows:

2 (a)(1)(A) For each school year, each school district shall receive
3 state foundation funding aid computed as ~~the difference between the:~~

4 (i) The foundation funding amount pursuant to under
5 subdivision (a)(2) of this section and;

6 (ii) Less the sum of ninety-eight percent (98%) of
7 the uniform rate of tax multiplied by the property assessment of the school
8 district plus the miscellaneous funds of the school district; and

9 (iii) Less an amount of excess foundation funding
10 under § 6-20-2308 that is:

11 (a) Not exempted by the Department of
12 Education under § 6-20-2308; and

13 (b) Up to the foundation funding amount under
14 subdivision (a)(2) of this section.

15 (B) The Department of Education shall distribute state
16 foundation funding aid to each school district in eleven (11) equal monthly
17 payments.

18
19 SECTION 6. Arkansas Code Title 6, Chapter 20, Subchapter 23 is amended
20 to add an additional section to read as follows:

21 6-20-2308. Excess foundation funding.

22 (a) As used in this section:

23 (1) "Excess foundation funding" means the amount of a school
24 district's foundation funding balance at the end of the immediately preceding
25 school year that exceeds sixteen and sixty-seven one hundredths percent
26 (16.67%) or more of the total foundation funding for the school district for
27 the current school year;

28 (2)(A) "Foundation funding" means the amount of money specified
29 under § 6-20-2305(a)(2) for each school year to be expended by school
30 districts for the provision of an adequate education multiplied by the
31 average daily membership of the school district.

32 (B) "Foundation funding" includes:

33 (i) Net revenues;

34 (ii) Miscellaneous funds;

35 (iii) State foundation funding aid;

36 (iv) Funding to ensure the ninety-eight percent

1 (98%) collection rate under § 6-20-2305(a)(4); and

2 (v) The amount of excess foundation funding applied
3 under subsection (c) of this section;

4 (3) "Foundation funding balance" means an amount of foundation
5 funding remaining in the unrestricted legal fund balance of a school district
6 for the school year just ended and calculated as:

7 (A) The unrestricted legal fund balance of the school
8 district on July 1; multiplied by

9 (B) The fraction represented by dividing the total amount
10 of foundation funding for the school district for the school year just ended
11 by the total amount of all unrestricted revenue and unrestricted funding
12 received by the school district in the school year just ended;

13 (4) "Miscellaneous funds" means the same as defined in § 6-20-
14 2303;

15 (5) "Net revenues" means the same as defined in § 6-20-2303;

16 (6) "State foundation funding aid" means the same as defined in
17 § 6-20-2303; and

18 (7) "Unrestricted legal fund balance" means the fund balance of
19 a school district that is identified as the unrestricted legal fund balance
20 by the Department of Education and contains foundation funding.

21 (b) The department shall annually identify the amount of foundation
22 funding balance for each school district and public charter school.

23 (c) Except as provided under subsection (d) of this section, a school
24 district's or public charter school's excess foundation funding shall be
25 applied to the calculation of the amount of state foundation funding aid the
26 school district or public charter school is entitled to receive under § 6-20-
27 2305.

28 (d)(1) A school district or public charter school may apply to the
29 department for an exemption from subsection (c) of this section for the
30 portion of excess foundation funding that is identified for a purpose
31 specified:

32 (A) In the school district's or public charter school's
33 budget and expenditure report concerning fund balances under § 6-20-2202(d);

34 (B) Under the Arkansas Public School Academic Facilities
35 Program Act, § 6-21-801 et seq.;

36 (C) In an application for funding under the Arkansas

1 Public School Academic Facilities Funding Act, § 6-20-2501 et seq.; or

2 (D) In the cycle 1 budget reported to the department for
3 the current school year.

4 (2) The department shall approve or deny the school district's
5 or public charter school's application for an exemption under the procedures
6 established by rules of the State Board of Education.

7 (3) The school district or public charter school shall annually
8 account for expenditures from exempted portions of excess foundation funding
9 to the department in its budget and expenditure report until the funds have
10 been spent for the purpose for which the exemption is granted.

11 (e)(1) By September 1, 2011, the State Board of Education shall
12 establish by rule one (1) or more indicators of student achievement to
13 determine the level at which the school district or public charter school is
14 subject to restriction on spending its excess foundation funding remaining
15 after the application of subsection (c) of this section.

16 (2) Beginning with the 2012-2013 school year, a school district
17 or public charter school that meets the criteria established by the state
18 board under subdivision (e)(1) of this subsection for:

19 (A) Eighty percent (80%) or more of its students may save
20 or spend its excess foundation funding remaining after the application of
21 subsection (c) of this section;

22 (B) Sixty-five percent (65%) or more but less than eighty
23 percent (80%) of its students shall spend all excess foundation funding
24 remaining after the application of subsection (c) of this section;

25 (C) More than fifty percent (50%) but less than sixty-five
26 percent (65%) of its students shall spend its excess foundation funding
27 remaining after the application of subsection (c) of this section under the
28 guidance of the department to implement programs specifically designed to
29 improve student achievement that may include without limitation after-school
30 programs and tutoring; and

31 (D) Fifty percent (50%) or less of its students shall:

32 (i) Be identified as being in academic distress by
33 the department under § 6-15-428; and

34 (ii) Spend its excess foundation funding remaining
35 after the application of subsection (c) of this section as directed by the
36 department.

1 (f)(1) It is a violation of the Standards for Accreditation of
2 Arkansas Public Schools and School Districts for a school district or public
3 charter school to spend excess foundation funding in violation of this
4 subsection.

5 (2) The department may require a school district to replace the
6 all or part of the funds spent in violation of this subsection.

7
8 SECTION 7. Arkansas Code § 26-80-110(b), concerning the use of funds
9 received from the collection of a dedicated maintenance and operations tax,
10 is amended to read as follows:

11 (b) Any funds received from the collection of a dedicated maintenance
12 and operations tax shall be:

13 (1) ~~used~~ Used only for maintenance and operation purposes
14 specifically approved by the majority of the qualified voters of the school
15 district voting in the school election and for no other purposes than those
16 that were stated on the ballot; and

17 (2) Accounted for as restricted under § 6-20-2203 and rules
18 established by the State Board of Education.

19
20 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that many Arkansas students still
22 fall below a standard of proficiency on state-mandated student achievement
23 assessments; that millions of state taxpayer dollars intended for educational
24 adequacy sit in school district fund balances; that the Arkansas Supreme
25 Court has declared that part of the state's constitutional obligation for
26 providing educational adequacy is to hold school districts accountable for
27 the expenditure of foundation funding; and that this act is immediately
28 necessary to require school districts to fund educational adequacy with
29 excess foundation funding beginning with the 2011-2012 school year.
30 Therefore, an emergency is declared to exist and this act being immediately
31 necessary for the preservation of the public peace, health, and safety shall
32 become effective on:

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

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

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

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4 /s/Pierce
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