

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/11/15
A Bill

HOUSE BILL 1611

5 By: Representatives Ratliff, Eubanks
6

7 **For An Act To Be Entitled**

8 AN ACT TO CLARIFY LAWS CONCERNING VACANCIES ON A
9 SCHOOL DISTRICT BOARD OF DIRECTORS; AND FOR OTHER
10 PURPOSES.
11

12
13 **Subtitle**

14 TO CLARIFY LAWS CONCERNING VACANCIES ON A
15 SCHOOL DISTRICT BOARD OF DIRECTORS.
16

17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 6-13-611 is amended to read as follows:
21 6-13-611. Vacancies generally.

22 (a) A vacancy shall occur on a school district board of directors if a
23 board member:

24 (1) Moves his or her bona fide permanent residence outside the
25 boundaries of the school district;

26 (2) Fails to physically attend three (3) consecutive regular
27 meetings of the school district board of directors unless the failure is due
28 to:

29 (A) Military service of the board member; or

30 (B) Illness of the board member that is verified by a
31 written sworn statement of the board member's attending physician;

32 (3) Fails to physically attend six (6) regularly scheduled board
33 meetings of the school board of directors in a calendar year unless the
34 failure is due to:

35 (A) Military service of the board member; or

36 (B) Illness of the board member that is verified by a



1 written sworn statement of the board member's attending physician;

2 (4) Is convicted of a felony in accordance with § 6-13-612;

3 (5) Is called to active military duty in accordance with § 6-13-
4 613;

5 (6) Resigned from the school board of directors; or

6 (7) Dies.

7 (b)(1) If credible evidence of a violation of subdivisions (a)(1)-(3)
8 is presented to the president, vice president, or secretary of a school
9 district board of directors, a majority of the members of the school district
10 board of directors shall:

11 (A) Vote on whether to appoint an independent investigator
12 to investigate the credible evidence presented; and

13 (B) Hold a hearing on the existence of a vacancy on the
14 school district board of directors.

15 (2)(A) At least fifteen (15) days before a hearing is held under
16 subdivision (b)(1)(B) of this section a notice of the hearing shall be
17 provided by personal delivery or certified mail with the return receipt
18 signed by the addressee only requested to the board member whose eligibility
19 is questioned so that the board member has an opportunity to speak before the
20 other members of the school district board of directors.

21 (B) If the board member whose eligibility is questioned is
22 unable to attend the hearing, the board member may:

23 (i) Submit no more than one (1) request in writing
24 to the president and secretary of the school district board of directors
25 requesting an alternative time for the hearing, not to be later than the next
26 regularly scheduled meeting of the school district board of directors; or

27 (ii) Notify the president and secretary of the
28 school district board of directors in writing that he or she is unable to
29 attend the meeting in person but will send a representative to the meeting in
30 his or her place.

31 (3) At a hearing held under (b)(1)(B) of this section, a
32 majority of the members of the school district board of directors, excluding
33 the board member whose eligibility is challenged, shall:

34 (A) Be presented with written or oral evidence;

35 (B) Act as the finder of fact to determine whether or not
36 a vacancy exists; and

1 (C) Vote whether or not a vacancy exists based on the
2 evidence at the conclusion of the hearing.

3 (4) A vacancy under subdivisions (a)(1)-(3) does not exist until
4 an affirmative vote has taken place under subdivision (b)(3)(C) of this
5 section.

6 (5)(A) The school district board of directors shall make a
7 record of the hearing and keep a copy of all evidence presented.

8 (B) A written transcript of the hearing shall be made
9 available upon request.

10 (6)(A) Within ten (10) days of a vote to remove a member of the
11 school district board of directors due to a vacancy under subdivision (a)(1)-
12 (3), the school district board of directors shall provide a written
13 notification of removal to the board member who is deemed ineligible.

14 (B) The notice shall:

15 (i) Include a statement of the removal, the date of
16 the vote, and the right to appeal;

17 (ii) Be delivered personally or by registered or
18 certified mail with the return receipt signed by the addressee only; and

19 (iii) Be provided to the county clerk for the county
20 clerk's records.

21 (c) If a vacancy occurs on the school district board of directors,
22 the vacancy shall be filled by the appointment of an individual who is a
23 qualified elector of the school district and who resides in the same zone, if
24 applicable, as required by the vacant position by either:

25 (1) a majority vote of the remaining directors; or

26 (2) The county quorum court if:

27 (A) As a result of several vacancies on the school
28 district board of directors, only a minority of board members remain; or

29 (B) The school board of directors fails to fill the
30 vacancy within thirty (30) days.

31 ~~(b) If, as a result of several vacancies on the board, only a minority~~
32 ~~of the directors remain or if the remaining directors fail to fill vacancies~~
33 ~~within thirty (30) days, the vacancies shall be filled by appointment by the~~
34 ~~county quorum court.~~

35 (d) If a vacancy on the school district board of directors results in
36 an officer position being vacant, the school district board of directors

1 shall elect no later than the next regularly scheduled meeting after the
2 appointment of a new board member, the officer position until the next
3 general election of board officers.

4 ~~(e)~~ All (e) An appointed directors director, except those appointed to
5 fill a vacancy under § 6-13-613, shall serve only to the next annual school
6 election, at which time the electors shall select in the usual manner
7 directors to serve the unexpired terms of the vacating directors.

8 (f)(1) The secretary of the school district board of directors shall
9 notify the county clerk of an appointment to the school district board of
10 directors within five (5) days of the appointment being made.

11 (2) The notice shall include the name of the appointed board
12 member and the expiration date of his or her term.

13 (g) A board member appointed under this section shall take the oath
14 required under § 6-13-617.

15
16 SECTION 2. Arkansas Code § 6-13-612(c), concerning vacancy due to the
17 conviction of a felony, is amended to read as follows:

18 ~~(c) The remaining members of the board of directors of the school~~
19 ~~district shall at their next regular meeting select a person to fill such~~
20 ~~vacancy until the next regular school election, at which election a successor~~
21 ~~member shall be elected for the remaining portion of such term~~ A vacancy on
22 a school district board of directors due to the conviction of a felony shall
23 be filled as required under § 6-13-611.

24
25 SECTION 3. Arkansas Code § 6-13-613(d)-(h), concerning temporary
26 vacancies, are amended to read as follows:

27 ~~(d) It shall be the duty of the secretary of the school district board~~
28 ~~of directors to notify the county clerk of such appointments within five (5)~~
29 ~~days of the appointment if made by the local board. This notice shall state~~
30 ~~the name of the person whom the appointee is succeeding and the expiration~~
31 ~~date of the term of office.~~

32 ~~(e)~~ Directors serving in the United States Armed Forces shall be
33 eligible for reelection in the usual manner prescribed by law. If reelected,
34 the procedure for filling the temporary vacancies provided herein shall be
35 again followed in the appointment of the successors to the absentees, and all
36 other provisions of this section shall prevail.

1 ~~(f) Should a local school district board member accept employment at a~~
2 ~~distance from the school district such that it renders the maintenance of his~~
3 ~~or her residence in the school district impossible or impracticable, should~~
4 ~~he or she remove his or her actual, bona fide residence outside the school~~
5 ~~district boundaries, on other than a temporary basis, should he or she fail~~
6 ~~to attend a meeting of the board of directors for over a period of ninety~~
7 ~~(90) days, his or her office as a school district board member, and any~~
8 ~~positions held thereon, may be declared vacant by a majority vote of the~~
9 ~~remaining school district board members, and his or her successor shall be~~
10 ~~appointed as prescribed by law.~~

11 ~~(g)~~(e) If there is a majority of the directors left after the absences
12 mentioned in this section, such majority may act without notice to those so
13 absent as fully and as effectively as if all directors were present.

14 ~~(h)~~(f) If there is more than a majority remaining after such absences,
15 notice must be given for a reasonable length of time before the meeting to
16 directors not so absent of the time, place, and purpose of a meeting of the
17 board of directors, unless the meeting is a regular and not a special or
18 called meeting.

19
20 SECTION 4. Arkansas Code § 6-13-619(d), concerning meetings, is
21 repealed.

22 ~~(d)(1) Any member of the board of directors who misses three (3)~~
23 ~~regular and consecutive board of directors meetings during a school year for~~
24 ~~any reason other than military service of the member or illness of the member~~
25 ~~verified by a written sworn statement of the member's attending physician may~~
26 ~~be removed from office by a majority vote of the remaining board members, but~~
27 ~~only after an opportunity for a hearing before the board of directors upon~~
28 ~~fifteen (15) days' notice received by personal delivery or by certified mail~~
29 ~~with the return receipt signed by the addressee only requested.~~

30 ~~(2) If the board of directors takes action to remove the member~~
31 ~~from office, the remaining members shall then appoint another individual to~~
32 ~~serve until the next annual school election, when electors shall select in~~
33 ~~the usual manner a director to serve the unexpired term of the removed~~
34 ~~member.~~

35
36 SECTION 5. Arkansas Code § 6-13-633 is repealed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

~~6-13-633. Vacancy.~~

~~If a member of the board of directors of a school district no longer resides in the school district, a vacancy shall exist and the vacancy shall be filled as provided by law.~~

/s/Ratliff