

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: S2/5/13  
**A Bill**

SENATE BILL 139

By: Senator K. Ingram  
By: Representative Perry

### For An Act To Be Entitled

AN ACT TO REVISE THE PROCEDURE FOR CURING A  
DEFICIENCY IN BOND PAYMENTS BY A SCHOOL DISTRICT; AND  
FOR OTHER PURPOSES.

### Subtitle

TO REVISE THE PROCEDURE FOR CURING A  
DEFICIENCY IN BOND PAYMENTS BY A SCHOOL  
DISTRICT.

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

SECTION 1. Arkansas Code § 6-20-1204 is amended to read as follows:  
6-20-1204. Form of bonds – Security.

(a) School bonds shall be issued by a school district in ~~such form as the directors of the district shall prescribe~~ the form prescribed by the school district's board of directors.

(b) School bonds may be secured by debt service millage.

(c)(1) As additional security for the payment of any bond of a school district, the ~~State Board of Education~~ Commissioner of Education shall cure ~~any delinquencies~~ a delinquency in payment by withholding state ~~aid~~ funding due the district.

(2)(A)(i) ~~Whenever~~ When the designated paying agent for receipt of the district's payments does not receive a payment when due pursuant to the authorizing documents, the paying agent ~~will be~~ is entitled to payment from the withheld state ~~aid~~ funding in ~~any~~ an amount sufficient to cure the payment deficiency ~~upon notifying~~ if the designated paying agent notifies the



~~Commissioner of Education~~ commissioner and the superintendent of the school district by telephone, facsimile, or other similar communication followed by written verification.

(ii) Unless the commissioner determines that payment has been made by the school district and that there is ~~no longer~~ not a payment deficiency, the commissioner shall withhold from the next distribution of state ~~aid~~ funding and remit to the paying agent an amount sufficient to cure the deficiency.

(B) ~~In the event that~~ If the amount next due to be distributed to the delinquent school district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state ~~aid~~ funding as due and remit it to the paying agent until the payment deficiency has been cured.

(C) If the commissioner is notified that a school district is delinquent on two (2) or more obligations, the commissioner shall make payment to paying agents in the order of receipt of notices of the delinquencies.

(3) If the ~~state board~~ commissioner withholds state ~~aid~~ funding from a school district pursuant to this subsection, the Department of Education shall identify the school district shall be classified as a Phase III school district in distress as described in § 6-20-1609 [repealed] to be a school district in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

(4) The requirements of this subsection apply to bonds issued by a school district before July 1, 2013.

(d)(1) For school bonds issued by a school district on or after July 1, 2013, a school district shall submit bond payments to its designated paying agent not later than fifteen (15) calendar days before the date the payments are due under the authorizing documents.

(2) Whenever the designated paying agent does not receive a payment within the time period in subdivision (d)(1) of this section, the paying agent immediately shall notify the commissioner and the superintendent of the school district in writing.

(3)(A) If the designated paying agent does not receive the bond payment from the district at least five (5) calendar days before the date the payment is due under the authorizing documents, the department immediately

shall cure any deficiency in payment by making payment in the full amount of the deficiency to the designated paying agent.

(B) If the commissioner determines that payment has been made by the school district and that a payment deficiency does not exist, the department shall not make the payment under subdivision (d)(3)(A) of this section.

(C) If the department makes payment under subdivision (d)(3)(A) of this section, it may identify the school district on behalf of which the payment is made to be a school district in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

(D)(i) If the department makes payment under subdivision (d)(3)(A) of this section, a school district shall be indebted to the department in the full amount paid by the department and immediately shall remit the full amount to the department.

(ii) If a school district does not remit the full amount to the department under subdivision (d)(3)(D)(i) of this section, the department shall withhold from the school district the next distribution of state funding in an amount sufficient to reimburse the department for the payment.

(iii) In the event that the amount of state funding next due to be distributed to the school district is not sufficient to reimburse the department, the department shall continue to withhold state funding due to the school district until the department is fully reimbursed.

(iv) If the commissioner determines that payment has been made to the department by the school district and that the obligation of the school district to the department no longer exists, the department shall not withhold from the school district the distribution of state funding under subdivisions (d)(3)(D)(ii)-(iii) of this section.

(e) As used in subsections (c) and (d) of this section, "state funding" includes without limitation:

(1) The following state funding under § 6-20-2305:

- (A) State foundation funding aid;
- (2) Declining enrollment funding;
- (3) Student growth funding; and
- (4) State categorical funding;

(2) Isolated funding and additional isolated funding under § 6-20-601 et seq.; and

(3) Other funding due to a school district under an appropriation of the General Assembly.

~~(d)~~(f) Holders of bonds of the school district shall have a first and prior right and security interest in the revenue produced by the debt service millage pledged by the school district to the payment of its bonds.

(g) The State Board of Education may promulgate the rules and regulations necessary to administer this section.

*/s/K. Ingram*

**APPROVED: 02/19/2013**