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A Bill

SENATE BILL 483

By: Senator J. English
By: Representative Cozart

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING PUBLIC SCHOOL FISCAL ACCOUNTABILITY AND
REPORTING; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING PUBLIC SCHOOL FISCAL
ACCOUNTABILITY AND REPORTING.

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

SECTION 1. Arkansas Code § 6-20-1902 is amended to read as follows:
6-20-1902. Purpose.

The purpose of this subchapter shall be to ~~establish and implement a~~
improve Arkansas public school districts' financial practices and use of
resources by establishing a:

(1) System by which the Department of Education shall review the
financial management practices of public school districts, including without
limitation identifying best financial management practices; ~~program~~

(2) Program by which the Department of Education shall identify,
assess, and address public school districts in any phase of fiscal distress
and that includes without limitation identification of early indicators of
fiscal distress and early intervention in public school districts that
experience early indicators of fiscal distress; and

(3) System for providing continuous fiscal support and
monitoring to public school districts that have been returned to local



control after being identified as in fiscal distress.

SECTION 2. Arkansas Code § 6-20-1904(a)(2), concerning an act or violation determined by the Department of Education to jeopardize the fiscal integrity of a public school district, is amended to add additional subdivisions to read as follows:

(M) Material failure to comply with § 6-20-1913 or department rules concerning the minimum qualifications for a general business manager; or

(N) Material failure to comply with reporting, debt approval, or other requirements placed on a public school district that has been returned to local control under § 6-20-1912; or

SECTION 3. Arkansas Code § 6-20-1904(b), concerning reporting to the superintendent of a public school district that the public school district has experienced two (2) or more indicators of fiscal distress, is amended to read as follows:

(b)(1) By ~~August 31~~ November 1 of each year, the department shall report to the superintendent of a public school district if the department is aware that the public school district has experienced two (2) or more indicators of fiscal distress, as described in subsection (a) of this section or in department rules, in one (1) school year that the department deems to be at a nonmaterial level but that without intervention could place the public school district in fiscal distress.

(2) ~~The~~ By November 1 of each year, the superintendent of a public school district shall report to the department if the superintendent is aware the public school district has experienced two (2) or more indicators of fiscal distress, as described in subsection (a) of this section or in department rules, in one (1) school year that the superintendent deems to be at a nonmaterial level but that without intervention could place the public school district in fiscal distress.

(3)(A) The department and the superintendent shall review all data related to the nonmaterial indicators of fiscal distress.

(B)(i) Within thirty (30) days of the department's determination that the public school district may be experiencing fiscal distress at a nonmaterial level, the department shall provide a notice to the

public school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of fiscal distress that could jeopardize the fiscal integrity of the public school district if not addressed; and

(b) Identifies the support available from the department to address each nonmaterial indicator of fiscal distress.

(ii) The board of directors of the public school district shall place on the agenda for the next regularly scheduled meeting of the board of directors of the public school district a discussion of the notice of nonmaterial indicators of fiscal distress.

(4)(A) If a public school district is determined to be experiencing fiscal distress at a nonmaterial level under this subsection, the public school district shall:

(i) Comply with all requirements established by the state board in rules, including without limitation review of the public school district's budget, reporting, and the hiring and termination of staff and;

(ii) Not incur any debt without the prior written approval of the department.

(B) The department may request that Arkansas Legislative Audit conduct an annual audit of a public school district that is determined to be experiencing fiscal distress at a nonmaterial level under this subsection.

SECTION 4. Arkansas Code § 6-20-1905(a), concerning notification by the Department of Education to a public school district identified as being in fiscal distress, is amended to read as follows:

(a)(1)(A)~~(i)~~ The Department of Education shall provide written notice, via certified mail, return receipt requested, to the president of the ~~school district~~ board of directors and the superintendent of each public school district identified as being in fiscal distress.

~~(i)~~(B) The department shall provide the notice required under this subdivision ~~(a)(1)(A)(a)(1)~~ on or before ~~March~~ June 30 of each year.

~~(B)(i)(2)(A)~~ At any time after ~~March~~ June 30, the department may identify a public school district as being in fiscal distress if the department discovers that a fiscal condition of a public school

district negatively impacts the continuation of educational services by the public school district.

~~(i)~~(B) The department immediately shall provide the same notice required under subdivision ~~(a)(1)(A)~~~~(i)(1)(A)~~ of this section to the public school district identified under this subdivision ~~(a)(1)(B)~~(a)(2).

SECTION 5. Arkansas Code § 6-20-1908(c), concerning a petition to the State Board of Education by a public school district in fiscal distress, is amended to read as follows:

(c) A public school district in fiscal distress may only petition the state board for removal from fiscal distress status after the department has certified in writing that the public school district has corrected all criteria for being classified as in fiscal distress, has not experienced any additional indicators of fiscal distress, and has complied with all department recommendations and requirements for removal from fiscal distress status.

SECTION 6. Arkansas Code § 6-20-1909(a), concerning actions the Commissioner of Education may take with respect to public school districts in fiscal distress, is amended to read as follows:

(a) In addressing public school districts in fiscal distress, the Commissioner of Education may:

(1) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the public school district and:

(A) Appoint an individual in place of the superintendent to administratively operate the public school district under the supervision and approval of the commissioner; ~~and~~

(B) Compensate nondepartment agents operating the public school district from public school district funding; and

(C) Authorize an individual appointed under subdivision (a)(1)(A) of this section to remove, replace, reassign, or suspend public school district personnel in accordance with state law;

(2) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the public school district, in which case the public school district shall reimburse the county board of election commissioners for election costs as

otherwise recognized by law;

(3)(A) Suspend on a temporary basis some or all of the powers and duties granted to the current public school district board of directors under § 6-13-620 or any other law but allow the public school district board of directors to continue to operate under the direction and approval of the commissioner.

(B) The State Board of Education shall define the powers and duties of the public school district board of directors while the public school district board of directors is operating under the direction and approval of the commissioner under subdivision (a)(3)(A) of this section.

(C) The public school district board of directors shall act in an advisory capacity to the commissioner regarding all powers and duties granted under § 6-13-620 that are not defined under subdivision (a)(3)(B) of this section;

~~(3)(4)~~ Require the public school district to operate without a board of directors under the supervision of the local superintendent or an individual or panel appointed by the commissioner;

~~(4)(5)~~ Waive the application of Arkansas law or the corresponding ~~State Board of Education~~ state board rules, with the exception of:

(A) *The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.; and*

(B) *The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;*

(C) Special education programs as provided in Title 6;

(D) Criminal background checks for employees as provided in Title 6; and

(E) Health and safety codes as established by state board and local governmental entities;

~~(5)(6)~~ Petition the state board for the annexation, consolidation, or reconstitution of the public school district;

~~(6)(7)~~ In the absence of a public school district board of directors, assume all authority of the board of directors as designated by the state board as may be necessary for the day-to-day governance of the public school district;

(8) Require reassignment of some or all of the administrative,

instructional, or support staff of a public school district;

(9) Require reorganization, closure, or dissolution of one (1) or more of the public schools within the public school district;

~~(7)(A)(10)(A)~~ Return the administration of the public school district to the former board of directors or to a newly elected board of directors if:

(i) The Department of Education certifies in writing to the state board and to the public school district that the public school district has corrected all issues that caused the classification of fiscal distress and the public school district has not experienced any additional indicators of fiscal distress; and

(ii) The state board determines the public school district has corrected all issues that caused the classification of fiscal distress.

(B) If the commissioner calls for an election of a new public school district board of directors, the public school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

~~(8)(11)~~ Otherwise reconstitute the public school district; or

~~(9)(12)~~ Take any other action allowed by law that is deemed necessary to assist a public school district in removing the classification of fiscal distress.

SECTION 7. Arkansas Code § 6-20-1910(d), concerning the process for returning a public school district to local control, is repealed.

~~(d) If the Commissioner of Education assumes authority over a public school district in fiscal distress under § 6-20-1909, the state board may pursue the following process for returning a public school district to the local control of its residents:~~

~~(1) During the second full school year following the assumption of authority, the state board shall determine the extent of the school district's progress toward correcting all issues that caused the classification of fiscal distress;~~

~~(2)(A) If the state board determines that sufficient progress has been made by a school district toward correcting all issues that caused the classification of fiscal distress, but the school district has not yet~~

~~resolved all issues that caused the classification of fiscal distress, the commissioner, with the approval of the state board, may appoint a community advisory board of either five (5) or seven (7) members to serve under the supervision and direction of the commissioner.~~

~~(B) The members of the community advisory board shall be residents of the school district and shall serve on a voluntary basis without compensation.~~

~~(C) The Department of Education shall cause to be provided to the community advisory board technical assistance and training in, at a minimum, the areas required in § 6-13-629.~~

~~(D) The duties of the community advisory board include without limitation:~~

~~(i) Meeting monthly during a regularly scheduled public meeting with the state-appointed administrator regarding the progress of the public school or school district toward correcting all issues that caused the classification of fiscal distress;~~

~~(ii) Seeking community input from the patrons of the school district regarding the progress of the public school or school district toward correcting all issues that caused the classification of fiscal distress;~~

~~(iii) Conducting hearings and making recommendations to the commissioner regarding personnel and student discipline matters under the appropriate district policies;~~

~~(iv) Working to build community capacity for the continued support of the school district; and~~

~~(v) Submitting quarterly reports to the commissioner and the state board regarding the progress of the public school or school district toward correcting all issues that caused the classification of fiscal distress.~~

~~(E) The members of the community advisory board shall serve at the pleasure of the commissioner until:~~

~~(i) The school district is returned to local control and a permanent board of directors is elected and qualified; or~~

~~(ii) The state board annexes, consolidates, or reconstitutes the school district under this section or under another provision of law;~~

~~(3)(A) By April 1 of each year following the appointment of a community advisory board under subdivision (d)(2) of this section, the state board shall determine the extent of the school district's progress toward correcting all issues that caused the classification of fiscal distress and shall:~~

~~(i) Allow the community advisory board to remain in place for one (1) additional year;~~

~~(ii) Return the school district to local control by calling for the election of a newly elected board of directors if:~~

~~(a) The department certifies in writing to the state board and to the school district that the school district has corrected all criteria for being placed into fiscal distress; and~~

~~(b) The state board determines the school district has corrected all criteria for being placed into fiscal distress; or~~

~~(iii) Annex, consolidate, or reconstitute the school district pursuant to this title.~~

~~(B) If the state board or commissioner calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;~~

~~(4)(A) If the state board calls for an election of a new school district board of directors pursuant to subdivision (d)(3)(A)(ii) of this section, the commissioner, with the approval of the state board, may appoint an interim board of directors to govern the school district until a permanent school district board of directors is elected and qualified.~~

~~(B) The interim board of directors shall consist of either five (5) or seven (7) members.~~

~~(C) The members of the interim board of directors shall be residents of the school district and otherwise eligible to serve as school district board members under applicable law.~~

~~(D) The members of the interim board of directors shall serve on a voluntary basis without compensation.~~

SECTION 8. Arkansas Code Title 6, Chapter 20, Subchapter 19, is amended to add additional sections to read as follows:

6-20-1912. Fiscal support and monitoring.

(a) When a public school district is returned to local control or removed from fiscal distress status, the Department of Education:

(1) Shall monitor the fiscal operations and accounts of the public school district for a period of three (3) years;

(2) Shall provide support to the public school district regarding maintaining fiscal integrity and best financial management practices; and

(3) May impose various reporting requirements on the public school district.

(b) A public school district that is returned to local control shall:

(1) Comply with all monitoring and reporting requirements established by the department and the State Board of Education, including without limitation review of the public school district's budget and approval for staffing;

(2) Not incur any debt without prior written approval of the department; and

(3) Use Arkansas Legislative Audit to conduct an annual audit.

6-20-1913. General business manager – Definition.

(a) As used in this subchapter, "general business manager" means a chief financial officer or business manager, however the position is titled, who:

(1) Is responsible for the fiscal operations of a public school district; and

(2) Performs duties under the direction of a superintendent of a public school district.

(b)(1) A general business manager for a public school district shall meet the minimum qualifications established by Department of Education rules.

(2) These department rules shall ensure minimum qualifications that support the implementation of best financial management practices for public school districts.

(c) A general business manager who was hired before July 31, 2007, is exempt from subsection (b) of this section.

6-20-1914. Review of financial management practices.

(a) The Department of Education shall implement a system for reviewing

the financial management practices of public school districts to determine the support that is needed by public school districts.

(b) The system established under subsection (a) of this section shall address without limitation a public school district's:

- (1) Use of resources;
- (2) Financial accountability; and
- (3) Personnel systems and benefits management.

/s/J. English

APPROVED: 4/12/19