

Stricken language would be deleted from and underlined language would be added to present law.  
Act 933 of the Regular Session

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

As Engrossed: S3/26/19

# A Bill

SENATE BILL 549

By: Senator J. English

## For An Act To Be Entitled

AN ACT CONCERNING THE ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT; TO AMEND PROVISIONS OF THE ARKANSAS CODE WITH RESPECT TO PUBLIC SCHOOL ACADEMIC FACILITIES; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND PROVISIONS OF THE ARKANSAS CODE WITH RESPECT TO PUBLIC SCHOOL ACADEMIC FACILITIES.

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

SECTION 1. Arkansas Code § 6-21-808(c)(2)(B)(ii), concerning the use of the computerized maintenance management system by a public school district, is amended to read as follows:

(ii)(a) School districts shall ~~be required to~~ participate in any state-level computerized maintenance management system designed to track work orders and preventative maintenance work established by the Division of Public School Academic Facilities and Transportation at no cost to the school district.

(b) The cost associated with additional maintenance modules by a school district shall be at the expense of the school district and may be within the nine-percent minimum maintenance expenditures under subdivision (d)(1)(A) of this section~~+~~.

(c) School district use of the computerized management maintenance system under this subdivision (c)(2)(B)(ii) shall include without limitation:



- (1) Entering and tracking all reactive and preventative maintenance work;
- (2) Entering preventative maintenance schedules for academic and non-academic facilities' systems;
- (3) Documenting completed reactive and preventative maintenance work; and
- (4) Scheduling state-mandated inspections as required under § 6-21-813(e);

SECTION 2. Arkansas Code § 6-21-811(g), concerning what actions the Division of Public School Academic Facilities and Transportation may take with respect to a public school district that is classified as in facilities distress, is amended to read as follows:

(g) When a school district is classified by the commission to be in facilities distress, the division may, with the approval of the commission:

(1)(A) Provide on-site technical evaluation and assistance and make written recommendations to the school district superintendent regarding the care and maintenance of any academic facility in the school district.

(B) Any school district classified as being in facilities distress status shall accept on-site technical evaluation and assistance from the division.

(C) The written recommendations of the division are binding on the school district, the superintendent, and the board of directors;

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

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

(B) ~~Compensate from the individual operating the school district funds the individual appointed to operate the~~ from school district funding; and

(C) Authorize the individual to remove, replace, reassign, or suspend public school district personnel in accordance with state law;

(3) 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

school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(4)(A) Remove 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 applicable law but allow the public school district board of directors to continue to operate under the direction and approval of the commissioner.

(B) The commission shall define the powers and duties of the public school district board of directors under this section.

(C) The public school district board of directors shall act in an advisory capacity to the commissioner with respect to all other powers and duties maintained by the commissioner;

~~(4)(5)~~ Require the school district to operate without a board of directors under the supervision of the superintendent or an individual or panel appointed by the commissioner;

~~(5)(6)~~ Waive the application of Arkansas law or the corresponding State Board of Education or commission rules and regulations, 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 this title;

(D) Conducting criminal background checks for employees as provided in this title; and

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

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

(8) Require reassignment of some or all of the administrative, instructional, or support staff of a public school;

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

~~(7)(A)(10)(A)~~ Return the administration of the school district

to the former board of directors or place the administration of the school district in a newly elected board of directors if:

(i) The division certifies in writing to the commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress and the school district has not experienced any additional indicators of facilities distress; and

(ii) The commission determines the school district has corrected all issues that caused the classification of facilities distress.

(B) If the division 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;

~~(8)(11)~~ Require school district staff and employees to attend training in areas of concern for the public school or school district;

~~(9)(A)(12)(A)~~ Require a school district to cease all expenditures related to activities not described as part of an adequate education in § 6-20-2302 and place money that would have been spent on the activities into an academic facilities escrow account to be released only upon approval by the division for use in conjunction with a local academic facilities project.

(B) School districts shall include a clause addressing this contingency in all contracts with personnel who are involved with activities not described as part of an adequate education;

~~(10)(13)~~ Notify the public school or school district in writing that the deficiencies regarding academic facilities shall be corrected within a time period designated by the division;

~~(11)(A)(14)(A)~~ Petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interest of students in the school district.

(B) The state board may approve the petition under subdivision (g)(14)(A) of this section or take other appropriate action as

allowed by this subchapter.

(C) Except as ~~set forth~~ established in subdivision ~~(g)(11)(D)~~ (g)(14)(D) of this section or subsection (n) of this section, the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in facilities distress within five (5) consecutive school years of classification of facilities distress status.

(D) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district;

~~(12)(15)~~ Correct the failure of a school district to complete its agreed plan or to pass the millage in the special election under subdivision (f)(2) of this section by contracting for and completing the necessary improvements under the agreed plan;

~~(13)(A)(16)(A)~~ If the ~~division recommends and the commission concurs that the academic facilities in the public school district in facilities distress are inadequate to provide an adequate education,~~ academic facilities in the public school district in facilities distress are inadequate to provide an adequate education, recommend that the state board ~~may~~ dissolve the school district and transfer students to public schools in other public school districts.

(B) ~~The~~ If the state board elects to dissolve the school district and transfer students to public schools in other public school districts, the state board shall assign the public school district's territory, property, and debt; and

~~(14)(17)~~ Take any other action allowed by law that is deemed necessary to assist a public school or school district in correcting the issues that caused the classification of facilities distress, to secure and protect the best interest of the educational resources of the state, or to provide for the best interest of students in the school district.

SECTION 3. Arkansas Code § 6-21-811(m), concerning actions the

Commission for Arkansas Public School Academic Facilities and Transportation may take with respect to public school districts in facilities distress, is repealed.

~~(m) If the division or commissioner assumes authority over a public school district in facilities distress under subsection (g) of this section, the commission 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 commission shall determine the extent of the school district's progress toward correcting all issues that caused the classification of facilities distress;~~

~~(2)(A) If the commission determines that sufficient progress has been made by a school district toward correcting all criteria for being classified as in facilities distress, but the school district has not yet resolved all issues that caused the classification of facilities distress, the commissioner, with the approval of the commission, may appoint a community advisory board of either five (5) or seven (7) members to serve under the supervision and approval 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 school or school district toward correcting all issues that caused the classification of facilities distress;~~

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

~~(iii) Conducting hearings and making recommendations to the commissioner regarding personnel and student discipline matters as set~~

~~forth in 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 commission regarding the progress of the school or school district toward correcting all issues that caused the classification of facilities 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 school district board of directors is elected and qualified; or~~

~~(ii) The state board, upon petition of the commission or division annexes, consolidates, or reconstitutes the school district pursuant to this title or under another provision of law;~~

~~(3) By April 1 of each year following the appointment of a community advisory board pursuant to subdivision (m)(2) of this section, the commission shall determine the extent of the school district's progress toward correcting all criteria for being classified as in facilities distress and shall:~~

~~(A) Allow the community advisory board to remain in place for an additional year;~~

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

~~(a) The division certifies in writing to the commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress; and~~

~~(b) The commission determines the school district has corrected all issues that caused the classification of facilities distress.~~

~~(ii) If the division or commission 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; or~~

~~(C) Petition the state board for the annexation,~~

~~consolidation, or reconstitution of the school district under this section; and~~

~~(4)(A) If the division, with the approval of the commission, calls for an election of a new school district board of directors pursuant to subdivision (g)(7) of this section, the commissioner, with the approval of the commission, 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 board members under applicable law.~~

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

SECTION 4. Arkansas Code § 6-21-812(a)(2), concerning student transfers under the Public School Choice Act of 2015 from a public school district classified as being in facilities distress, is amended to read as follows:

(2) The student is not required to file a petition to transfer by ~~June~~ May 1 but shall meet all other requirements and conditions of the Public School Choice Act of 2015, § 6-18-1901 et seq.

*/s/J. English*

**APPROVED: 4/12/19**