

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1181

By: Representative Hammer

For An Act To Be Entitled

AN ACT TO AMEND THE PUBLIC SCHOOL CHOICE LAW; TO AMEND OTHER PROVISIONS OF LAW RELATED TO THE PUBLIC SCHOOL CHOICE LAW; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE PUBLIC SCHOOL CHOICE LAW AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 6-15-430(b)(1), concerning student transfers from a school district that is identified as being in academic distress, is amended to read as follows:

(b)(1)(A) Subject to subdivision (b)(1)(B) of this section, Any a nonresident district shall accept the public school choice transfer request under § 6-18-231 of a student attending a public school district classified as being in academic distress shall automatically be eligible and entitled pursuant to the Arkansas Public School Choice Act of 1989, § 6-18-206, to transfer to another geographically contiguous school district if the nonresident district:

(i) Is geographically contiguous to the resident district; and

(ii) Is not classified as being in academic distress during the time period that a school the resident district is classified as being in academic distress and, therefore, not be.

(B) The student is not required to file a petition by July



1 but shall meet all other requirements and conditions of ~~the Arkansas Public School Choice Act of 1989, § 6-18-206~~ Arkansas Public School Choice Act, § 6-18-231.

SECTION 2. Arkansas Code § 6-18-202(g), concerning the age and attendance requirements for attending public schools, is amended to read as follows:

(g) This section ~~shall not be construed to~~ does not restrict a student's ability to participate in a:

(1) ~~tuition~~ Tuition agreement with a nonresident school district; or

(2) ~~to officially transfer to another school district pursuant to the Arkansas Public School Choice Act of 1989, § 6-18-206~~ Arkansas Public School Choice Act, § 6-18-231.

SECTION 3. Arkansas Code § 6-18-206 is repealed.

~~6-18-206. Public school choice.~~

~~(a)(1) This section may be referred to and cited as the "Arkansas Public School Choice Act of 1989".~~

~~(2) The General Assembly finds that the students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents or guardians are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some marginal students will stay in school and that other, more motivated students will find their full academic potential.~~

~~(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools since teachers, administrators, and school board members will have added incentive to satisfy the educational needs of the students who reside in the district.~~

~~(4) The General Assembly therefore finds that these benefits of enhanced quality and effectiveness in our public schools justify permitting a~~

~~student to apply for admission to a school in any district beyond the one in which the student resides, provided that the transfer by this student would not adversely affect the desegregation of either district.~~

~~(5) A public school choice program is hereby established to enable any student to attend a school in a district in which the student does not reside, subject to the restrictions contained in this section.~~

~~(b)(1)(A) Before a student may attend a school in a nonresident district, the student's parent or guardian must submit an application on a form approved by the Department of Education to the nonresident district by submitting the application to the superintendent of the school district. This application must be postmarked not later than July 1 of the year in which the student would begin the fall semester at the nonresident district.~~

~~(B)(i) Within thirty (30) days of the receipt of an application from a nonresident student seeking admission under the terms of this section, the superintendent of the nonresident district shall notify the parent or guardian and the resident district in writing as to whether the student's application has been accepted or rejected.~~

~~(ii) If the application is rejected, the superintendent of the nonresident district must state in the notification letter the reason for rejection.~~

~~(iii) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:~~

~~(a) An absolute deadline for the student to enroll in the district, or the acceptance notification is null; and~~

~~(b) Any instructions for the renewal procedures established by the district.~~

~~(iv)(a) Any student who accepts a school choice transfer may return to his or her resident district during the course of the school year.~~

~~(b) If a transferred student returns to his or her resident district during the school year, the student's transfer is voided, and the student shall reapply for any future transfer.~~

~~(2)(A) The school board of directors of every public school district must adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program,~~

~~class, grade level, or school building. Nothing in this section requires a school district to add teachers, staff, or classrooms or in any way to exceed the requirements and standards established by existing law. Standards shall include a statement that priority will be given to applications from siblings or stepsiblings residing in the same residence or household of students already attending the district by choice. Standards may not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings except that an expulsion from another district may be included pursuant to § 6-18-510.~~

~~(B)(i) Any student who applies for a transfer under this section and is denied a transfer by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.~~

~~(ii) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after notice of rejection of the application under subdivision (b)(1)(B) of this section is received by the student.~~

~~(3) Each school district shall participate in public school choice consistent with this section.~~

~~(c) The responsibility for transportation of a student from the student's resident school district to a nonresident school district shall be borne by the student or the student's parents. The nonresident school district may enter into a written agreement with the student, the student's parents, or the resident school district to provide transportation to or from any place in the resident district to the nonresident district, or both.~~

~~(d)(1) A nonresident district shall accept credits toward graduation that were awarded by another district.~~

~~(2) The nonresident district shall award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.~~

~~(e) For purposes of determining a school district's state equalization aid, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.~~

~~(f) The provisions of this section and all student choice options created in this section are subject to the following limitations:~~

~~(1) No student may transfer to a nonresident district where the~~

~~percentage of enrollment for the student's race exceeds that percentage in the student's resident district except in the circumstances set forth in subdivisions (f)(2) and (3) of this section;~~

~~(2)(A) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and nonresident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department.~~

~~(B)(i) By the filing deadline each year, the department shall compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county.~~

~~(ii)(a) In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth ($\frac{1}{4}$) or twenty-five percent (25%) of the county's racial balance.~~

~~(b) In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth ($\frac{1}{4}$) or twenty-five percent (25%) of the county's racial balance;~~

~~(3) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district affected by the transfer does not have a critical mass of minority percentage in the student's race of more than ten percent (10%) of any single race;~~

~~(4) In any instance in which the provisions of this subsection would result in a conflict with a desegregation court order or a district's court-approved desegregation plan, the terms of the order or plan shall govern;~~

~~(5) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and~~

~~(6) The department shall monitor school districts for compliance with this section.~~

~~(g) The state board shall be authorized to resolve disputes arising under subsections (b)-(f) of this section.~~

~~(h) The superintendent of the district shall cause public announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.~~

~~(i)(1) All superintendents of school districts shall report to the Equity Assistance Center on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.~~

~~(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.~~

~~(3) The department may withhold state aid from any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Equity Assistance Center so long as thirty (30) calendar days are given between the request for the information and the published deadline except when the request comes from a member or committee of the General Assembly.~~

~~(4) A copy of the report shall be provided to the Joint Interim Oversight Committee on Educational Reform.~~

~~(j)(1) The department shall develop a proposed set of rules as it determines is necessary or desirable to amend the provisions of this section.~~

~~(2) The department shall present the proposed rules in written form to the House Interim Committee on Education and the Senate Interim Committee on Education by October 1, 2006, for review and consideration by the committees for possible amendments to this section and to the Arkansas Public School Choice Program by the Eighty-sixth General Assembly.~~

SECTION 4. Arkansas Code Title 6, Chapter 18, Subchapter 2, is amended to add an additional section to read as follows:

6-18-231. Public school choice.

(a)(1) This section may be referred to and cited as the "Arkansas Public School Choice Act".

(2) The General Assembly finds that:

(A) The students in Arkansas's public schools and their parents or guardians will become more informed about and involved in the public educational system if students and their parents or guardians are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some marginal students will stay in school and that other, more motivated students will find their full academic potential;

(B) Providing more options to parents or guardians and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school board members will have added incentive to satisfy the educational needs of the students who reside in the school district; and

(C) The benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the one in which the student resides, subject to the restrictions contained in this section.

(b) As used in this section:

(1) "National school lunch student count" means the number of national school lunch students of the school district for purposes of receiving national school lunch state categorical funding under § 6-20-2305;

(2) "Nonresident district" means a school district:

(A) That is other than the school district where the student resides as determined under § 6-18-202; and

(B) To which the student desires to transfer under this section; and

(3) "Resident district" means the school district:

(A) Where the student resides as determined under § 6-18-202; and

(B) From which the student desires to transfer under this section.

(c) A public school choice program is hereby established to enable a student to attend a school in a nonresident district, subject to the restrictions contained in this section.

(d)(1) Before a student may attend a school in a nonresident district, the student's parent or guardian must submit an application on a form approved by the Department of Education to the resident district and the nonresident district by submitting the application to the superintendent of the school district.

(2) The application must be postmarked no later than July 1 of the year in which the student would begin the fall semester at the nonresident district.

(e)(1)(A) The superintendent of the nonresident district shall determine whether accepting the transfer will increase the nonresident district's national school lunch student count to sixty-five and no one-hundredths percent (65.00%) or higher.

(B) At the superintendent's request, the parent or guardian submitting the application shall provide the superintendent with information needed to make the determination under this subsection (e).

(2)(A) If the superintendent of the nonresident district determines that the transfer will increase the nonresident district's national school lunch student count to sixty-five and no one-hundredths percent (65.00%) or higher, the superintendent of the nonresident district shall:

(i) Reject the transfer; or

(ii) Accept the transfer with the joint approval of the student's resident school district.

(B) Subdivision (e)(2) of this section does not apply to a nonresident district in which sixty-five and no one-hundredths percent (65.00%) or greater of the 2012-2013 school year's enrolled students are national school lunch students unless the nonresident district exempted under this subdivision drops below a sixty-five and no one-hundredths percent (65.00%) enrollment of national school lunch students after the effective date of this section.

(3) If the superintendent of the resident district determines that the transfer will decrease the resident district's national school lunch student count to sixty-five and no one-hundredths percent (65.00%) or lower

or will increase the resident district's national school lunch student count to seventy-five and no one-hundredths percent (75.00%) or higher:

(A) The superintendent of the resident district shall notify the superintendent of the nonresident district; and

(B) The superintendent of the nonresident district shall:

(i) Reject the transfer; or

(ii) Accept the transfer with the joint approval of the student's resident school district.

(4) A student whose transfer was authorized by a nonresident district under this section as this section existed before the effective date of this act is entitled to remain enrolled in the nonresident district subject to the renewal procedures of the nonresident district and other provisions of law concerning attendance and enrollment in public schools.

(f)(1) By August 1 of the school year in which the nonresident student is seeking admission under the terms of this section, the superintendent of the nonresident district shall notify the parent or guardian and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district must state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

(4)(A) A student who accepts a school choice transfer may return to his or her resident district during the course of the school year.

(B) If a transferred student returns to his or her resident district during the school year, the student's transfer is voided, and the student shall reapply if he or she seeks a future transfer.

(g)(1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications that:

(A) May include without limitation the capacity of a

program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, disability, English proficiency, or previous disciplinary proceedings. However, an expulsion from another school district may be included pursuant to § 6-18-510.

(2) This section does not require a school district to add teachers, staff, or classrooms, or in any way to exceed the requirements and standards established by existing law.

(h)(1) A student who applies for a transfer under this section and is denied a transfer by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

(2) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after notice of rejection of the application under subsection (f) of this section is received by the student.

(i) Each school district shall participate in a public school choice program consistent with this section.

(j) The responsibility for transportation of a student from the student's resident district to a nonresident district shall be borne by the student or the student's parent or guardian. The nonresident district may enter into a written agreement with the student, the student's parent or guardian, or the resident district to provide transportation to or from any place in the resident district to the nonresident district, or both.

(k)(1) A nonresident district shall accept credits toward graduation that were awarded by another district.

(2) The nonresident district shall award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(l) For purposes of determining a school district's state foundation funding aid under § 6-20-2305, the nonresident student shall be counted as a part of the average daily membership of the nonresident district to which the

student has transferred.

(m) If the provisions of this section result in a conflict with a desegregation court order or a district's court-approved desegregation plan, the terms of the order or plan shall govern.

(n) The department shall adopt appropriate rules and regulations to implement the provisions of this section.

(o)(1) The state board may resolve disputes arising under this section.

(2) If the state board rules in favor of a parent on appeal, the state board shall notify the school district of the basis for the state board's decision.

(p) The superintendent of a school district shall cause public announcements to be made over the broadcast media and in either the print media or on the Internet to inform parents or guardians of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

SECTION 5. Arkansas Code § 6-21-812(a), concerning student transfers from a school district that is identified as being in fiscal distress, is amended to read as follows:

(a)(1) Subject to subdivision (a)(2) of this section, Any a nonresident district shall accept the public school choice program transfer request under § 6-18-231 of a student attending a public school district classified as being in facilities distress ~~shall automatically be eligible and entitled under the Arkansas Public School Choice Act of 1989, § 6-18-206, to transfer to another geographically contiguous school district not if the~~ nonresident district:

(A) Is geographically contiguous to the resident district;
and

(B) Is not classified as being in facilities distress during the time period that a the resident district is classified as being in facilities distress.

(2) The student is not required to file a petition by July 1 but

shall meet all other requirements and conditions of the ~~Arkansas Public School Choice Act of 1989, § 6-18-206~~ Arkansas Public School Choice Act, § 6-18-231.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public School Choice Act of 1989 have been found to be unconstitutional by a federal court; that thousands of public school students are currently attending public schools in nonresident school districts under that law; that there is now uncertainty about the viability of those transfers and future transfers; that this act amends the disputed provisions of that law while preserving the opportunity for public school choice and encouraging diversity in public schools; and that this act is immediately necessary to resolve the uncertainty in the law before the 2013-2014 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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