

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1602

By: Representative Johnson

For An Act To Be Entitled

AN ACT TO MODIFY THE REQUIREMENTS FOR SCHOOL DISTRICT
DETACHMENT; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

TO MODIFY THE REQUIREMENTS FOR SCHOOL
DISTRICT DETACHMENT; AND TO DECLARE AN
EMERGENCY.

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

SECTION 1. Arkansas Code § 6-13-1505 is amended to read as follows:
6-13-1505. Creation of school district.

(a) If all the requirements of this subchapter are met and a majority of the votes are cast for the proposition, the State Board of Education shall order the creation of the new school district.

(b)(1) At the time the order creating the district is made, the state board shall appoint a board of directors of seven (7) members for the new school district to serve until the next regular election of members, when a board of directors shall be elected in compliance with Arkansas law.

(2) Following the entry of the order creating the new school district, the new school district shall:

(A) Be considered a school district under § 6-13-101 et seq. for all constitutional and statutory purposes, except as limited under this section;

(B) Be considered a body corporate and may sue and be sued in the name of the new school district; and



(C) After the appointment of a board of directors for the new school district but ~~prior to~~ before the transfer of any assets, territory, property, liabilities, duties, or responsibilities, ~~any~~ a new school district created by detachment from an existing school district that is a party to any court-ordered desegregation plan shall petition the court having jurisdiction in the desegregation matter and obtain any and all court orders or other relief necessary to ensure that the detachment will not cause the state or any affected school district to be in violation of any orders of the court or any consent orders or decrees entered into by the parties with regard to the desegregation plan.

(3) Following the entry of the order creating the new school district, the new school district may:

(A) Exercise the power of eminent domain; and

(B) Borrow money and issue bonds for allowable purposes under § 6-20-1201 et seq.;

(c)(1)(A) ~~Any~~ A new school district created under this subchapter shall ~~take~~ be allocated the ~~property assets~~ of the school district from which the territory was taken, as the state board shall deem proper, ~~and~~ or as agreed by the original school district and the new school district with the approval of the state board.

(B) The transfer or conveyance of the title of the assets from the original school district to the new school district shall be documented through deeds, assignments, or bills of sale as necessary to produce evidence of the transfer of ownership and the resulting rights and liabilities.

(2)(A) The new school district may be allocated transferred assets in exchange for payment or may assume liability ~~shall be liable~~ for that part of ~~all~~ the indebtedness of the original school district ~~from which allocable to the territory was taken~~ within the new school district as agreed by the original school district and the new school district with the approval of the state board or as determined, ~~shall be~~, assigned, or allocated to the new school district by the state board.

(B) In determining the value of the transferred assets or the amount of the indebtedness for which the new school district will become responsible, the new school district and the original school district shall either:

(i) Agree upon an amount with the approval of the state board; or

(ii) Allow the state board to determine the amount if the new school district and the original school district fail to agree.

(3) The allocation or assignment of indebtedness shall be structured in a manner that does not cause the original school district to default under the documents authorizing the indebtedness, and shall not violate any tax covenants contained in the documents authorizing the indebtedness by the original districts.

(4) In determining foregoing allocations, all reasonable and fair methods of allocation shall be considered, including without limitation:

(A) A third-party appraisal of the real property to be transferred to the new school district;

(B) A ratio generated by comparing the number of students currently residing in the boundaries of the new school district to the total number of students in the original school district;

(C) A ratio generated by comparing the assessed value of property within the boundaries of the new school district to the assessed value of property within the original school district;

(D) A ratio generated by comparing the amount of the outstanding debt of the original school district that was incurred to finance property located within the boundaries of the new school district to the total outstanding debt of the original school district; and

(E) Other reasonable and fair methods of allocation.

(d)(1) The millage ad valorem tax rate of the electors of the detached territory new school district shall remain the same as that of the original school district until an election may be is held to change the rate of taxation for the detached area in the new school district and a rate of tax is approved, and shall be allocated in the same proportion between maintenance and operation and debt service was allocated by the original school district.

(2) The new school district may use and pledge debt service millage to pay all or part of any indebtedness assigned or allocated to the new school district for payment of any other lawful indebtedness of the new school district, for maintenance and operation of the new school district, or for any other lawful purpose, until a different rate is approved by the

qualified electors of the new school district.

(e) In order to satisfy the payment obligations of a new school district with respect to the allocation of assets, or if the new school district assumes or becomes responsible for any indebtedness of the original school district, one (1) or more of the following methods may be used by the new school district to meet the new school district's obligations:

(1) Borrow funds from the original school district as mutually agreed by both school districts;

(2) Enter into lease with purchase agreements, revolving loans, term loans, post-date warrants, or installment contracts;

(3) Borrow funds from a private, governmental, or commercial lender;

(4) Issue bonds; or

(5) Use any other lawful method.

(f) The state board shall have the following rights and duties regarding creation of a school district by detachment:

(1) To form local school districts, change boundary lines of school districts, create new school districts, and perform all other functions regarding changes in school districts in accordance with the law;

(2) To transfer funds and attach territory that is in one (1) school district to other school districts as may seem best for the educational welfare of the children, including the loaning of funds to the new school district under terms and conditions acceptable to the state board;
and

(3) To enact rules and regulations regarding the creation of school districts by detachment under this subchapter.

~~(f)~~(g) In its order creating the new school district under this section, the state board may allow a transition period of up to two (2) consecutive years to allow the new school district to become fully operational.

(h)(1) The new school district shall publish a projected budget of expenditures for the first anticipated operational school year at least sixty (60) days before the next annual school election for which notice can be lawfully given.

(2) At the school election or any subsequent school election, a new school district may present to the qualified electors of the new school

district a proposed ad valorem tax for the maintenance and operation of schools and the retirement of indebtedness.

SECTION 2. Arkansas Code § 6-20-1201 is amended to read as follows:

6-20-1201. Authority to borrow money and issue negotiable bonds.

A school district may borrow money and issue negotiable bonds to repay borrowed moneys from school funds for:

- (1) Building and equipping school buildings;
- (2) Making additions and repairs to school buildings;
- (3) Purchasing sites for school buildings;
- (4) Purchasing new or used school buses;
- (5) Refurbishing school buses;
- (6) Providing professional development and training of teachers

or other programs authorized under the federally recognized qualified zone academy bond program, 26 U.S.C. § 1397E; ~~and~~

(7) Paying off outstanding postdated warrants, installment contracts, revolving loans, and lease-purchase agreements, as provided by law; and

(8) In the case of a new school district created under § 6-13-1505:

(A) Purchasing school buildings and other structures;

(B) Purchasing new or used furniture, fixtures, and equipment;

(C) Paying the costs of the allocation of assets to the news school district; and

(D) Paying or retiring the outstanding indebtedness of the original school district that the new school district has become responsible for under § 6-13-1505.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that there are a number of Arkansas school districts that are losing students; that the laws concerning detachment are not clear in assigning assets and indebtedness between old and new school districts; and that this act is immediately necessary to ensure that a newly created school district is able to secure property and assume debt. 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.