

Title 6. Education

Chapter III. Division of Public School Academic Facilities and Transportation, Department of Education

Subchapter A. Generally

Part 328. The Academic Facilities High-Growth School District Loan Program

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "18 June 2008".

"Authority[.] These rules shall be known as the Arkansas Commission for Public School Academic Facilities and Transportation (Commission) Rules Governing the Academic Facilities High-Growth School District Loan Program (HGLP). These rules are promulgated pursuant to Ark. Code Ann. §§ 6-20-2511 (Act 995 of 2007) and 6-20-2512."

Subpart 1. Generally

6 CAR § 328-101. Purpose.

The purpose of this part is to implement the requirements of Arkansas Code § 6-20-2511 (Acts 2007, No. 995) to provide for the Academic Facilities High-Growth School District Loan Program.

Authority. Arkansas Code § 6-20-2511.

6 CAR § 328-102. Definitions.

For purposes of this part, the following terms shall mean as follows:

(1) "Average daily membership" means the total number of days attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of the school year divided by the number of

school days actually taught in the district during that period of time rounded up to the nearest hundredth;

(2) "Academic facilities factor" means the ratio of the total square footage of academic facilities financed with outstanding bonded indebtedness over the combined square footage of academic and nonacademic facilities with outstanding bonded indebtedness;

(3) "Bonded indebtedness incurred for academic facilities" means bonded indebtedness calculated by the Division of Public School Academic Facilities and Transportation as follows: in determining the amount of a district's bonded indebtedness incurred for academic facilities, the division shall assume that all construction on academic and nonacademic facilities was proportionate to each project;

(4) "Commission" means the Commission for Arkansas Public School Facilities and Transportation;

(5) "Department" means the Department of Education;

(6) "Division" means the Division of Public School Academic Facilities and Transportation;

(7)(A) "Maximum expected millage" means, for the purposes of this loan program, ten (10) debt service mills, representing the maximum number of debt service mills that a public school district is expected to raise to service its bonded indebtedness incurred for academic facilities.

(B)(i) A school district that has "raised the maximum expected millage" must have ten (10) or more debt service mills based on the:

(a) Most recent millage election prior to the April 15 applications submission deadline in the case of current year special elections; or

(b) Prior calendar year final millage report in the absence of current year special elections.

(ii) The final millage report will include rollback information.

(iii) The determination of the required academic debt service mills for consolidated or annexed school districts that does not have a unified millage rate will be calculated on a case-by-case basis; and

(8) "Revenue generated from the maximum expected millage" means revenue calculated by multiplying the prior calendar year assessment data by ten (10) mills.

Authority. Arkansas Code § 6-20-2511.

6 CAR § 328-103. Loans to high-growth school districts.

(a) There is established the Academic Facilities High-Growth School District Loan Program, under which the Division of Elementary and Secondary Education shall provide an interest-free loan for the new construction of academic facilities to a high-growth school district when the:

(1) High-growth school district anticipates exceeding the maximum expected millage; and

(2) Revenue generated from the maximum expected millage is less than the amount required to service the bonded indebtedness to be incurred for academic facilities.

(b) A school district may be eligible for the Academic Facilities High-Growth School District Loan Program if:

(1) The high-growth school district has raised the maximum expected millage and the revenue generated from the maximum expected millage is less than the amount required to service the bonded indebtedness incurred for academic facilities;

(2) The school district has an approved project to meet the high-growth need in the Academic Facilities Partnership Program;

(3) The ADM of the school district in the present school year is at least four percent (4%) higher than the ADM of the school year that is two (2) years prior to the present year, excluding growth resulting from annexation or consolidation;

(4) The total space available in the school district is less than the amount needed to accommodate the growth of students; and

(5) The high-growth school district can restructure the delivery of education to use all available space without incurring additional debt.

(c) The purpose of the loan to a high-growth school district is to assist the school districts with building new academic facilities that, as a result of high growth, will cause the school district to incur indebtedness for academic facilities that exceeds the maximum expected millage.

(d) Applications for the Academic Facilities High-Growth School District Loan Program must be submitted to the Division of Public School Academic Facilities and Transportation, in a format stipulated by the Division of Elementary and Secondary Education between February 1 and April 15 of each year, beginning in 2009.

(e)(1) The Division of Public School Academic Facilities and Transportation shall make a determination that the total space available in the high-growth school district is less than the amount needed to accommodate the growth of students.

(2) If the Division of Public School Academic Facilities and Transportation finds that additional space is needed to accommodate the growth of students, then the Commission for Arkansas Public School Academic Facilities and Transportation shall:

(A) Certify the same to the Division of Elementary and Secondary Education; and

(B) Forward the district's application to the Division of Elementary and Secondary Education.

(f) The amount of the loan shall be the amount of moneys required for academic facilities less the sum of:

(1) The revenues generated by the maximum expected millage; and

(2) The state revenue received by the high-growth school district under the Academic Facilities Partnership Program.

(g) The high-growth school district shall apply for the loan from the Revolving Loan Fund, subject to:

(1) Arkansas Code §§ 6-20-801 – 6-20-816;

(2) Arkansas Code § 6-20-2511; and

(3) This part.

(h) When the revenue required to service the bonded indebtedness incurred for the high-growth school district's academic facilities is less than the revenue generated by maximum expected millage, the high-growth school district shall repay the loan.

(i)(1) The high-growth school district shall make annual payments to the Division of Elementary and Secondary Education in the amount of:

(A) The revenue generated by the high-growth school district's millage up to the amount of the revenues generated from the maximum expected millage for the year; less

(B) The revenue required to service the high-growth school district's bonded indebtedness for academic facilities.

(2) The payments under subsections (h) and (i) of this section shall continue until the loan is paid in full.

(j) During the time that the loan to the high-growth school district is in repayment, the high-growth school district:

(1) Shall use all revenues generated below the maximum expected millage to repay the loan;

(2) Shall not issue refunding bonds or refunding certificates, as provided under Arkansas Code § 6-20-815; and

(3) Shall not otherwise change the amount of revenues available to repay the loan without the prior approval of the Division of Elementary and Secondary Education.

(k) Within a reasonable time after its receipt, each application under subsections (b) - (g) of this section shall be examined by the Division of Elementary and Secondary Education and Division of Public School Academic Facilities and Transportation in accordance with rules established by the State Board of Education as to the accuracy of the answers contained therein.

(l) In considering the merits of each application, the Division of Public School Academic Facilities and Transportation shall determine:

(1) That the district meets the definition of a "high-growth school district" as contained in 6 CAR § 328-102(4) of this part;

(2) That the space available in the high-growth school district is less than the amount needed to accommodate the high growth; and

(3) Whether the high-growth school district can restructure the delivery of education to use all available space without incurring additional debt.

(m) After considering the merits of each application, the Division of Public School Academic Facilities and Transportation may, in its discretion:

(1) Approve the application for the full amount of the proposed loan;

(2) Approve the application for a loan of a lesser amount than the amount requested; or

(3) Disapprove the application.

(n) The Division of Elementary and Secondary Education shall notify each applicant school district and the Division of Elementary and Secondary Education's Loans and Bonds Committee by June 15 of each even-numbered year if the school district meets the criteria under subsection (l) of this section.

(o) The Loans and Bonds Committee should notify each applicant school district by June 30 of each even-numbered year as to whether the high-growth school district loan has been approved or denied.

(p) The Division of Elementary and Secondary Education shall promulgate forms and documents to be used by school districts in the loan application process.

Authority. Arkansas Code § 6-20-2511.

Codification Notes. "ADM" means average daily membership.