

1 State of Arkansas As Engrossed: S3/13/19 S3/26/19

2 92nd General Assembly

A Bill

3 Regular Session, 2019

SENATE BILL 483

4

5 By: Senator J. English

6 By: Representative Cozart

7

For An Act To Be Entitled

9

AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE

10

CONCERNING PUBLIC SCHOOL FISCAL ACCOUNTABILITY AND

11

REPORTING; AND FOR OTHER PURPOSES.

12

13

14

Subtitle

15

TO AMEND PROVISIONS OF THE ARKANSAS CODE

16

CONCERNING PUBLIC SCHOOL FISCAL

17

ACCOUNTABILITY AND REPORTING.

18

19

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

21

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

23 6-20-1902. Purpose.

24 The purpose of this subchapter shall be to ~~establish and implement a~~

25 improve Arkansas public school districts' financial practices and use of

26 resources by establishing a:

27 (1) System by which the Department of Education shall review the

28 financial management practices of public school districts, including without

29 limitation identifying best financial management practices; ~~program~~

30 (2) Program by which the Department of Education shall identify,

31 assess, and address public school districts in any phase of fiscal distress

32 and that includes without limitation identification of early indicators of

33 fiscal distress and early intervention in public school districts that

34 experience early indicators of fiscal distress; and

35 (3) System for providing continuous fiscal support and

36 monitoring to public school districts that have been returned to local



1 control after being identified as in fiscal distress.

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

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

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

13
14 SECTION 3. Arkansas Code § 6-20-1904(b), concerning reporting to the
15 superintendent of a public school district that the public school district
16 has experienced two (2) or more indicators of fiscal distress, is amended to
17 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

23
24 SECTION 4. Arkansas Code § 6-20-1905(a), concerning notification by
25 the Department of Education to a public school district identified as being
26 in fiscal distress, is amended to read as follows:

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

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

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

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

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

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

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

17
18 SECTION 6. Arkansas Code § 6-20-1909(a), concerning actions the
19 Commissioner of Education may take with respect to public school districts in
20 fiscal distress, is amended to read as follows:

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

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

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

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

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

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

1 otherwise recognized by law;

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

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

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

15 ~~(3)(4)~~ Require the public school district to operate without a
 16 board of directors under the supervision of the local superintendent or an
 17 individual or panel appointed by the commissioner;

18 ~~(4)(5)~~ Waive the application of Arkansas law or the
 19 corresponding ~~State Board of Education~~ state board rules, with the exception
 20 of:

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

23 (B) *The Public School Employee Fair Hearing Act, § 6-17-*
 24 *1701 et seq.;*

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

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

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

30 ~~(5)(6)~~ Petition the state board for the annexation,
 31 consolidation, or reconstitution of the public school district;

32 ~~(6)(7)~~ In the absence of a public school district board of
 33 directors, assume all authority of the board of directors as designated by
 34 the state board as may be necessary for the day-to-day governance of the
 35 public school district;

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

1 instructional, or support staff of a public school district;

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

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

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

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

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

19 ~~(8)(11)~~ Otherwise reconstitute the public school district; or

20 ~~(9)(12)~~ Take any other action allowed by law that is deemed
 21 necessary to assist a public school district in removing the classification
 22 of fiscal distress.

23
 24 SECTION 7. Arkansas Code § 6-20-1910(d), concerning the process for
 25 returning a public school district to local control, is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33
34 SECTION 8. Arkansas Code Title 6, Chapter 20, Subchapter 19, is
35 amended to add additional sections to read as follows:

36 6-20-1912. Fiscal support and monitoring.

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

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

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

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

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

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

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

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

18
19 6-20-1913. General business manager – Definition.

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

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

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

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

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

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

34
35 6-20-1914. Review of financial management practices.

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

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

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

5 (1) Use of resources;

6 (2) Financial accountability; and

7 (3) Personnel systems and benefits management.

8
9
10 /s/J. English
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36