

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

HOUSE BILL 1181

4
5 By: Representative Hammer

For An Act To Be Entitled

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

Subtitle

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

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18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Arkansas Code § 6-15-430(b)(1), concerning student
22 transfers from a school district that is identified as being in academic
23 distress, is amended to read as follows:

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

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

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

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



1 1 but shall meet all other requirements and conditions of ~~the Arkansas Public~~
 2 ~~School Choice Act of 1989, § 6-18-206~~ Arkansas Public School Choice Act, § 6-
 3 18-231.

4
 5 SECTION 2. Arkansas Code § 6-18-202(g), concerning the age and
 6 attendance requirements for attending public schools, is amended to read as
 7 follows:

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

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

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

15
 16 SECTION 3. Arkansas Code § 6-18-206 is repealed.

17 ~~6-18-206. Public school choice.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33
34 SECTION 4. Arkansas Code Title 6, Chapter 18, Subchapter 2, is amended
35 to add an additional section to read as follows:

36 6-18-231. Public school choice.

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

3 (2) The General Assembly finds that:

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

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

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

23 (b) As used in this section:

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

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

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

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

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

33 (A) Where the student resides as determined under § 6-18-
34 202; and

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

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

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

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

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

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

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

24 (i) Reject the transfer; or

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

27 (B) Subdivision (e)(2) of this section does not apply to a
28 nonresident district in which sixty-five and no one-hundredths percent
29 (65.00%) or greater of the 2012-2013 school year's enrolled students are
30 national school lunch students unless the nonresident district exempted under
31 this subdivision drops below a sixty-five and no one-hundredths percent
32 (65.00%) enrollment of national school lunch students after the effective
33 date of this section.

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

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

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

5 (B) The superintendent of the nonresident district shall:

6 (i) Reject the transfer; or

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

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

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

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

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

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

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

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

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

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

36 (A) May include without limitation the capacity of a

1 program, class, grade level, or school building;

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

4 (i) Resides in the same household; and

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

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

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

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

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

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

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

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

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

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

1 student has transferred.

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

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

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

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

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

16 (1) Availability of the program;

17 (2) Application deadline; and

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

20
21 SECTION 5. Arkansas Code § 6-21-812(a), concerning student transfers
22 from a school district that is identified as being in fiscal distress, is
23 amended to read as follows:

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

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

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

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

1 shall meet all other requirements and conditions of the ~~Arkansas Public~~
2 ~~School Choice Act of 1989, § 6-18-206~~ Arkansas Public School Choice Act, § 6-
3 18-231.

4
5 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
6 General Assembly of the State of Arkansas that certain provisions of the
7 Arkansas Public School Choice Act of 1989 have been found to be
8 unconstitutional by a federal court; that thousands of public school students
9 are currently attending public schools in nonresident school districts under
10 that law; that there is now uncertainty about the viability of those
11 transfers and future transfers; that this act amends the disputed provisions
12 of that law while preserving the opportunity for public school choice and
13 encouraging diversity in public schools; and that this act is immediately
14 necessary to resolve the uncertainty in the law before the 2013-2014 school
15 year. Therefore, an emergency is declared to exist, and this act being
16 immediately necessary for the preservation of the public peace, health, and
17 safety shall become effective on:

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

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

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