

REFERENCE TITLE: school districts; gross mismanagement; intervention

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2114

Introduced by
Representative Udall

AN ACT

AMENDING SECTIONS 15-103 AND 15-107, ARIZONA REVISED STATUTES; RELATING TO SCHOOL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-103, Arizona Revised Statutes, is amended to
3 read:

4 15-103. School districts; financial mismanagement;
5 intervention; definitions

6 A. The state board of education shall review allegations of school
7 district insolvency and gross mismanagement. The state board shall give
8 the school district an opportunity to respond to these allegations at a
9 public meeting. If the state board determines that the school district is
10 insolvent or has grossly mismanaged its finances, the state board shall
11 appoint a receiver or fiscal crisis team for that school district.

12 B. The state board shall find a school district insolvent if it
13 finds one or more of the following:

14 1. The school district is unable to pay debts as they fall due or
15 in the usual course of business.

16 2. The salaries of any teachers or other employees have remained
17 unpaid for **AT LEAST** forty-five days.

18 3. The tuition due another school district or other state
19 institution remains unpaid on or after January 1 of the year following the
20 school year it was due and there is no dispute regarding the validity or
21 amount of the claim.

22 4. The school district has defaulted in payment of its bonds or
23 interest on bonds or in payment of rentals due any state or federal
24 authority or private business for a period of **AT LEAST** sixty calendar days
25 and no action has been initiated within that period of time to make
26 payment.

27 5. The school district has contracted for any loan not authorized
28 by law.

29 6. The school district has accumulated and has operated with a
30 deficit equal to five ~~per cent~~ **PERCENT** or more of the school district's
31 revenue control limit for any fiscal year within the past two fiscal years
32 or the conditions prescribed in section 15-107 have occurred.

33 7. The school district's warrants have not been honored for payment
34 by the school district's servicing bank or by the county treasurer and the
35 warrants have remained unpaid for a period of more than sixty calendar
36 days.

37 C. A school district shall not be deemed to be insolvent pursuant
38 to subsection B of this section if the circumstances are the result of the
39 failure of the state to make any payments of monies due the school
40 district at the time payment is due.

41 D. The state board of education ~~shall have~~ **HAS** jurisdiction over
42 all petitions requesting that a school district be placed in receivership
43 and a receiver be appointed or that a fiscal crisis team be appointed
44 because of the school district's alleged insolvency or gross
45 mismanagement. The state board ~~shall have~~ **HAS** the burden of demonstrating

1 by a preponderance of the evidence that the school district is insolvent
2 or is engaged in gross mismanagement.

3 E. If the state board of education finds that the school district
4 is insolvent or has engaged in gross mismanagement, the state board may
5 place the school district in receivership and appoint a receiver
6 recommended by the state board. The state board shall develop and adopt a
7 list of qualified receivers to be appointed by the board.

8 F. On appointment, the receiver may perform any of the actions
9 prescribed in ~~paragraphs i through ii of~~ this subsection and shall begin a
10 full review and investigation of the school district's financial affairs
11 and submit to the state board of education a detailed report listing the
12 findings of that investigation that ~~shall include~~ INCLUDES a financial
13 improvement plan and budget that details how the school district will
14 eliminate any continued gross financial mismanagement and achieve
15 financial solvency. The plan shall include a proposed timeline for
16 achieving financial solvency. The receiver shall submit the report within
17 one hundred twenty days after the receiver's appointment. The financial
18 improvement plan approved by the state board of education may authorize
19 the receiver to do any of the following:

20 1. Override any decisions of the school district's governing board
21 or the school district superintendent, or both, concerning the management
22 and operation of the school district, and initiate and make decisions
23 concerning the management and operation of the school district.

24 2. Attend any and all meetings of the school district's governing
25 board and administrative staff.

26 3. Supervise the day-to-day activities of the school district's
27 staff, including reassigning the duties and responsibilities of personnel
28 in a manner that, in the determination of the receiver, best suits the
29 needs of the school district.

30 4. Place on extended leave, suspend or terminate for cause the
31 school district's superintendent or chief financial officer, or both. The
32 receiver is not authorized to provide a severance or buyout package to the
33 school district's superintendent or chief financial officer if the school
34 district is placed into receivership by the state board of education. A
35 person terminated pursuant to this paragraph may appeal the receiver's
36 decision to the state board of education if an appeal is filed with the
37 state board within thirty days ~~of~~ AFTER receiving notice of the
38 termination.

39 5. Authorize pupils to transfer from schools operated by the school
40 district to schools operated by another school district that is not
41 currently in receivership.

42 6. Appoint a chief educational officer who shall possess the powers
43 and duties of a school district superintendent. A chief educational
44 officer who is appointed pursuant to this paragraph shall hold a valid
45 administrative certificate.

1 7. Appoint a chief fiscal officer who shall possess the powers and
2 duties of the school district's chief school business official and any
3 other duties regarding budgeting, accounting and other financial matters
4 that are assigned to the school district by law.

5 8. Appoint a competent independent public accountant to audit the
6 accounts of the school district.

7 9. Reorganize the school district's financial accounts, management
8 and budgetary systems to improve financial responsibility and reduce
9 financial inefficiency within the district.

10 10. Establish school district fiscal guidelines and a system of
11 internal controls, including internal administrative controls and internal
12 accounting controls, with provisions for internal audits.

13 11. Cancel or renegotiate any contract, other than contracts of
14 certificated teachers who have been employed by the school district in the
15 capacity of a certificated teacher for more than one year immediately
16 before the date the receiver was appointed, to which the governing board
17 or the school district is a party if the cancellation or renegotiation of
18 the contract will produce needed economies in the operation of the
19 district's schools. The receiver may refuse to reemploy any certificated
20 teacher who has not been employed by the school district for more than the
21 major portion of three consecutive school years ~~as provided in section~~
22 ~~15-536~~.

23 G. The receiver's power, authority and duties ~~shall be~~ ARE
24 effective on the date of the receiver's appointment by the state board of
25 education. The receiver shall perform the receiver's duties according to
26 the instructions of the state board of education order and according to
27 law. The receiver shall promptly report any violations of law, including
28 a violation of the uniform system of financial records, to the state board
29 of education.

30 H. On review and approval of the state board of education, the
31 receiver shall take all necessary steps to implement the financial
32 improvement plan and budget ~~utilizing~~ USING those powers identified in the
33 plan as prescribed in subsection F of this section.

34 I. The salary and benefits of the receiver and any officers or
35 employees appointed by the receiver shall be paid by the school district.
36 The state board of education shall determine the salary for the receiver
37 and any officers or employees appointed by the receiver based on amounts
38 recommended by the state board.

39 J. The state board of education shall remove the school district
40 from receivership and dismiss the receiver and dismiss any officer or
41 employee appointed by the receiver thirty days after all of the following
42 have occurred:

43 1. The auditor general certifies that the school district has been
44 financially solvent for one fiscal year.

1 2. The auditor general certifies that the school district's
2 financial records are in compliance with the uniform system of financial
3 records and generally accepted accounting principles.

4 3. The receiver certifies that the school district is no longer
5 engaged in gross mismanagement.

6 4. The state board of education has determined that the school
7 district is able to pay its debts as those debts become due.

8 K. Beginning ninety days after the submission of the first report
9 prescribed in subsection F of this section, the receiver shall submit a
10 quarterly progress report to the state board of education. The state
11 board of education shall review the expenses and costs of the receiver at
12 least once each calendar quarter.

13 L. The state board of education shall formally review the
14 receiver's progress every six months. If, based on the quarterly progress
15 reports, the state board determines that the receiver's progress is
16 insufficient, the state board may remove the current receiver and appoint
17 another receiver for the school district.

18 M. The state board of education may dismiss the receiver for cause
19 or on a majority vote of no confidence in the receiver of the state board.

20 N. The school district shall indemnify the receiver and any officer
21 or employee appointed by the receiver who is made or threatened to be made
22 a party to any litigation by reason of their status under this section if
23 the receiver, officer or employee acted in good faith and in a manner that
24 the receiver, officer or employee reasonably believed to be consistent
25 with the best interest of the school district and if the receiver, officer
26 or employee had no reasonable cause to believe that the conduct was
27 unlawful.

28 O. During the period of time that the school district is in
29 receivership, ~~no~~ A member, officer, employee or agent of the school
30 district may NOT enter into any contract or incur any liability on behalf
31 of the school district for any purpose if the amount of the contract or
32 liability exceeds the receiver's authorized financial plan and budget for
33 the school district. The receiver may discipline, including, if
34 warranted, imposing a suspension from duty without pay, removal from
35 office or termination of, any school district employee or officer who
36 violates this subsection.

37 P. This section does not create a private cause of action against
38 the school district or its officers, directors, board members or
39 employees.

40 Q. The assumption of control of the school district by the receiver
41 shall ~~in no way~~ NOT interfere with the election or reelection of school
42 district governing board members.

43 R. This section shall not interfere with a school district's
44 ability to declare bankruptcy under federal law.

1 S. The state board of education shall continue to monitor and offer
2 technical assistance to a school district for two years after its removal
3 from receivership.

4 T. All information received and records or reports kept by the
5 state board of education during an investigation resulting from a
6 complaint against a receiver appointed pursuant to this section or section
7 15-107 are confidential and not a public record.

8 U. The state board of education or the department of education
9 shall immediately notify the auditor general if the board or department
10 has knowledge that a superintendent or chief financial officer who was
11 employed at the school district at the time the school district was placed
12 in receivership is currently employed in another school district or
13 charter school in this state.

14 V. Notwithstanding any other law, a fiscal crisis team appointed
15 pursuant to this section ~~shall be~~ IS subject to section 15-107,
16 subsections E through H and a school district that is assigned a level two
17 fiscal crisis team pursuant to this section ~~shall be~~ IS subject to section
18 15-107, subsections J, K and L.

19 W. For the purposes of this section:

20 1. "Fiscal crisis team" means either:

21 (a) A level one fiscal crisis team with the duties and authority
22 prescribed in section 15-107, subsection D, paragraph 2.

23 (b) A level two fiscal crisis team with the duties and authority
24 prescribed in section 15-107, subsection D, paragraph 3.

25 2. "Gross mismanagement":

26 (a) Means that the school district's officers or employees
27 committed or engaged in gross incompetence or systemic and egregious
28 mismanagement of the school district's finances or financial records.

29 (b) INCLUDES EITHER OF THE FOLLOWING AS INDICATED ON ANY SCHOOL
30 DISTRICT AUDIT:

31 (i) FOUR OR MORE MATERIAL WEAKNESSES AS DETERMINED BY THE AUDITOR
32 GENERAL.

33 (ii) TWENTY OR MORE UNFAVORABLE FINDINGS AS DETERMINED BY THE
34 AUDITOR GENERAL AND ACCORDING TO THE UNIFORM SYSTEM OF FINANCIAL RECORDS
35 FOR THREE CONSECUTIVE YEARS.

36 3. "Notice" means written notice personally served or delivered by
37 certified mail, return receipt requested.

38 4. "Receiver" means an individual WHO IS appointed by the state
39 board of education from the persons recommended by the state board for the
40 purpose of managing a school district placed in receivership by the state
41 board of education.

42 5. "Receivership" means the state or condition of being under the
43 control of the receiver appointed by the state board of education.

44 6. "Superintendent" means the chief executive officer of the school
45 district.

1 Sec. 2. Section 15-107, Arizona Revised Statutes, is amended to
2 read:

3 15-107. School district overexpenditures and gross
4 mismanagement; fiscal crisis teams; reporting
5 requirements; actions resulting from
6 overexpenditures; professional development;
7 definitions

8 A. A county school superintendent, within two business days, shall
9 provide written notice to the department of education, if, in the county
10 school superintendent's judgment, a school district has committed an
11 overexpenditure under this section. Notwithstanding any other law, a
12 warrant shall not be drawn by a county school superintendent for an
13 expenditure that is in excess of the amount budgeted and that has not been
14 previously expended, unless the county school superintendent is notified
15 in writing by the department of education that budget capacity exists as
16 determined by the department based on information provided by the school
17 district.

18 B. The department of education, in conjunction with the county
19 school superintendent, shall monitor the school district and provide
20 technical assistance to the school district and to the county school
21 superintendent to resolve the overexpenditure.

22 C. If the department of education determines that the school
23 district has failed to take appropriate action to resolve the
24 overexpenditure or that the original notice of overexpenditure pursuant to
25 subsection A of this section constitutes an overexpenditure that will
26 cause the school district's overall expenditures to exceed the school
27 district's general budget limit or unrestricted capital budget limit by
28 ~~fifty thousand dollars~~ \$50,000 or one-half of one ~~per cent~~ PERCENT,
29 whichever is less, the department shall request that the matter be placed
30 on the agenda of a meeting of the state board of education for action
31 pursuant to this section.

32 D. At the request of the department of education, the state board
33 of education shall call a public meeting to consider overexpenditures **OR**
34 **GROSS MISMANAGEMENT** by any school district. The state board of education
35 shall require the superintendent of the school district and any other
36 school district personnel who may have information relevant to the
37 overexpenditure **OR GROSS MISMANAGEMENT** to appear before the state board of
38 education. After testimony from all interested parties, the state board
39 of education shall take one of the following actions:

40 1. Require the department of education, in conjunction with the
41 county school superintendent, to monitor the expenditures of the school
42 district.

43 2. Direct the department of education to contract with a level one
44 fiscal crisis team. The level one fiscal crisis team shall provide
45 on-site oversight and off-site monitoring for the school district for ~~no~~

1 NOT longer than twelve months and shall advise the school district on all
2 financial issues and professional development training related to
3 financial issues.

4 3. Direct the department of education to contract with a level two
5 fiscal crisis team. The level two fiscal crisis team shall provide
6 on-site oversight and off-site monitoring for the school district for ~~no~~
7 NOT longer than twenty-four months, shall have the authority prescribed
8 for level one fiscal crisis teams and may override any financial act or
9 decision of the school district, including expenditures.

10 4. Appoint a receiver who, subject to the discretion of the state
11 board of education, may take any actions prescribed in section 15-103,
12 subsection F.

13 E. The level one and level two fiscal crisis teams shall be
14 composed of at least one person who has knowledge of school finance and
15 may include current or former school district financial officers, current
16 or former school district business managers, certified public accountants
17 and current or former school district superintendents. The fiscal crisis
18 teams shall not include employees of the state board of education or the
19 department of education.

20 F. The expenses incurred by a fiscal crisis team or by a receiver
21 appointed pursuant to this section shall be paid by the school district.
22 The state board of education shall review the expenses and costs of each
23 fiscal crisis team at least once each calendar quarter.

24 G. Beginning ninety days after submitting the fiscal management
25 report prescribed in subsection H of this section, the fiscal crisis team
26 or receiver appointed pursuant to this section shall submit a detailed
27 written quarterly progress report to the state board of education that
28 includes all of the following:

29 1. The results of the review of the school district's finances,
30 including expenditures.

31 2. The recommendations and decisions made by the fiscal crisis team
32 or the receiver appointed pursuant to this section.

33 3. The status of the fiscal management plan described pursuant to
34 subsection H of this section.

35 4. Recommendations to the state board of education on the content
36 of professional development training related to overexpenditures OR GROSS
37 MISMANAGEMENT.

38 5. Any recommendations of potential action to be taken concerning
39 professional certificates issued to school district personnel by the state
40 board of education or the department of education. The state board of
41 education shall review the recommendations submitted pursuant to this
42 paragraph and shall take appropriate action.

43 H. After appointment, the fiscal crisis team or the receiver
44 appointed pursuant to this section shall review the financial affairs of
45 the school district and may work with school finance personnel at the

1 department of education to ensure that the finances of the school district
2 are in compliance with the laws of this state. A school district that has
3 been assigned a fiscal crisis team or a receiver pursuant to this section
4 shall submit, in consultation with the receiver or the fiscal crisis team,
5 a fiscal management report to the state board of education within one
6 hundred twenty days after the date that the state board of education
7 appointed the receiver or the fiscal crisis team. The fiscal management
8 report shall include the following:

9 1. A description of the fiscal management plan that has been
10 implemented to correct the overexpenditure OR GROSS MISMANAGEMENT,
11 including the following:

12 (a) The manner in which the fiscal management plan will address the
13 findings and recommendations of the fiscal crisis team.

14 (b) A timeline for complete resolution of the overexpenditure OR
15 GROSS MISMANAGEMENT.

16 (c) A detailed explanation of the methods and procedures that will
17 be implemented to prevent future overexpenditures OR GROSS MISMANAGEMENT.

18 (d) The identification of any issues that need to be resolved
19 before the fiscal management plan may be fully implemented.

20 (e) The identification of any long-term issues resulting from the
21 overexpenditure OR GROSS MISMANAGEMENT that will extend to future fiscal
22 years.

23 2. A description of the manner in which the fiscal management plan
24 was developed, including identification of the role of the fiscal crisis
25 team or the receiver, the role of the school district governing board and
26 the role of the administrators of the school district.

27 I. On or before December 31, the state board of education shall
28 submit an annual report to the governor, the president of the senate and
29 the speaker of the house of representatives. The state board shall
30 provide a copy of this report to the secretary of state. The annual
31 report shall include the following:

32 1. A summarized compilation of the fiscal management reports
33 submitted by school districts pursuant to subsection H of this section.

34 2. The actions taken by the state board of education, the
35 department of education, school districts, fiscal crisis teams and
36 receivers during the most recently completed fiscal year.

37 3. Recommendations regarding improvements to the laws of this state
38 or to administrative actions required under the laws of this state.

39 J. A school district that is assigned a level two fiscal crisis
40 team or a receiver pursuant to this section shall require professional
41 development training for school district governing board members and
42 appropriate administrative personnel of the school district, including the
43 school district superintendent, who are involved in district finances and
44 budgeting, as determined by the level two fiscal crisis team or by the
45 receiver. The professional development training shall be selected from a

1 list approved by the state board of education, and the cost of the
2 professional development training shall be paid by the school district.
3 Governing board members and district administrative personnel shall
4 complete at least twelve hours of professional development training within
5 one hundred twenty days after the assignment of a level two fiscal crisis
6 team or the appointment of a receiver. The fiscal crisis team or the
7 receiver shall report to the state board of education whether the
8 professional development training requirements prescribed in this
9 subsection have been met.

10 K. A school district governing board member who fails to complete
11 the professional development training within the time prescribed in
12 subsection J of this section is guilty of nonfeasance in office, and the
13 state board of education shall forward a complaint to the attorney
14 general. The attorney general may bring an action in superior court
15 against a school district governing board member for failure to comply
16 with the professional development training requirements prescribed in
17 subsection J of this section. If a court determines that a school
18 district governing board member failed to comply with the professional
19 development training requirements prescribed in subsection J of this
20 section, the court shall issue an order removing the school district
21 governing board member from office. Any vacancy in the office of the
22 school district governing board as a result of a court order issued
23 pursuant to this subsection shall be filled in the manner provided by law.

24 L. If any of the administrative personnel of the school district
25 fails to complete the professional development training within the time
26 prescribed in subsection J of this section, the state board of education
27 may take appropriate action concerning current certificates held by that
28 person.

29 M. All information received and records or reports kept by the
30 state board of education during an investigation resulting from a
31 complaint against a receiver appointed pursuant to this section or section
32 15-103 are confidential and not a public record.

33 N. For the purposes of this section: ~~;~~

34 1. "GROSS MISMANAGEMENT" HAS THE SAME MEANING PRESCRIBED IN SECTION
35 15-103.

36 2. "Overexpenditure" means an expenditure ~~in excess of~~ THAT EXCEEDS
37 any of the following:

38 ~~1.~~ (a) The general budget limit of the school district or the
39 amount budgeted by the school district, whichever is less.

40 ~~2.~~ (b) The unrestricted capital budget limit of the school
41 district or the amount budgeted for capital by the school district,
42 whichever is less.