

ENROLLED HOUSE
BILL NO. 1233

BY: ADAIR, FERGUSON and
JOHNSON (Rob) of the
HOUSE

and

SHEDRICK of the SENATE

AN ACT RELATING TO SCHOOL DISTRICTS; AMENDING 62 O.S. 1981, SECTIONS 477, 478, 479, AS AMENDED BY SECTION 15, CHAPTER 249, O.S.L. 1982 AND 480 (62 O.S. SUPP. 1990, SECTION 479), WHICH RELATE TO LIABILITY OF CERTAIN OFFICERS FOR PAYMENT OF WARRANTS IN EXCESS OF ESTIMATES MADE AND APPROVED; MODIFYING LANGUAGE IN LAWS TO CLEARLY INCLUDE SCHOOL BOARD MEMBERS; SETTING PUNISHMENT LIMITS FOR MISDEMEANORS; AMENDING 68 O.S. 1981, SECTIONS 24100, AS LAST AMENDED BY SECTION 13, CHAPTER 90, O.S.L. 1988 AND 24101 (68 O.S. SUPP. 1990, SECTION 24100), WHICH RELATE TO TEMPORARY AND SUPPLEMENTAL APPROPRIATIONS; REQUIRING SCHOOL DISTRICTS TO PUBLISH APPLICATION FOR TEMPORARY APPROPRIATIONS AND SUPPLEMENTAL APPROPRIATIONS; AMENDING 70 O.S. 1981, SECTIONS 5-125 AND 5-126, WHICH RELATE TO LIABILITY FOR VOTING ON FALSE CLAIMS AND PROCEDURES TO RECOVER MONIES AND PROPERTIES SO PAID; MAKING CERTAIN ACTS A MISDEMEANOR; SETTING PUNISHMENT THEREFOR; MODIFYING PROCEDURES TO INSTITUTE CERTAIN ACTIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 1981, Section 477, is amended to read as follows:

Section 477. It shall be unlawful for any officer to issue, approve, sign, attest or register any warrant or certificate of indebtedness in any form in excess of the estimate of expenses made and approved for the current fiscal year or authorized for such a purpose by a bond issue, and any such warrant or certificate of indebtedness issued, approved, attested or registered in excess of the estimate made and approved or authorized by a bond issue, shall not be a charge against the municipality or school district upon which it is issued, but may be collected by civil action from any officer issuing, drawing, approving, signing, attesting, registering or paying the same, or from either or all of them, or from their bondsmen.

SECTION 2. AMENDATORY 62 O.S. 1981, Section 478, is amended to read as follows:

Section 478. Any treasurer who shall register or pay a warrant, or certificate of indebtedness, issued in excess of the estimate made and approved by the excise board for the current fiscal year, or in excess of a bond issue for such purpose, shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not

less than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail not exceeding one (1) year, or by both such fine and imprisonment.

SECTION 3. AMENDATORY 62 O.S. 1981, Section 479, as amended by Section 15, Chapter 249, O.S.L. 1982 (62 O.S. Supp. 1990, Section 479), is amended to read as follows:

Section 479. A. It shall be unlawful for the board of county commissioners, the county purchasing agent, the city council or the commissioners of any city, the trustees of any town, ~~board of education,~~ township board, school district board of education or any member or members of the aforesaid commissioners, or of any of the above-named boards, to make any contract for, incur, acknowledge, approve, allow or authorize any indebtedness against their respective municipality, county or school district or authorize it to be done by others, in excess of the estimate made and approved by the excise board for such purpose for such current fiscal year, or in excess of the specific amount authorized for such purpose by a bond issue.

B. Any such indebtedness, contracted, incurred, acknowledged, approved, allowed or authorized in excess of the estimate made and approved for such purposes for such current fiscal year or in excess of the specific amount authorized for such purpose by a bond issue, shall not be a charge against the municipality, county or school district whose officer or officers contracted, incurred, acknowledged, approved, allowed or authorized or attested the evidence of said indebtedness, but may be collected by civil action from any official contracting, incurring, acknowledging, approving or authorizing or attesting such indebtedness, or from his bondsmen.

SECTION 4. AMENDATORY 62 O.S. 1981, Section 480, is amended to read as follows:

Section 480. Any officer contracting, incurring, acknowledging, authorizing, allowing or approving any indebtedness, or any officer issuing, drawing, or attesting any warrant or certificate of indebtedness in excess of the estimate made and approved by the excise board for such purpose for such current fiscal year or in excess of the specific amount authorized for such purpose by a bond issue, or who violates any other provision of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be ~~fin~~ed punished by a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail for not to exceed one (1) year, or by both such fine and imprisonment, and shall forfeit and be removed from ~~his~~ office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et seq. of Title 51 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 68 O.S. 1981, Section 24100, as last amended by Section 13, Chapter 90, O.S.L. 1988 (68 O.S. Supp. 1990, Section 24100), is amended to read as follows:

Section 24100. A. The excise boards of the various counties in the state may convene at any time after the beginning of any fiscal year, upon call of the chairman of the board, for the purpose of approving temporary appropriations for the counties, cities, school districts and other municipal subdivisions of the state. Whenever the governing board of any such county, city, school district or other municipal subdivision of the state shall present to the excise board of such county or of the county in which any such city, school district or other municipal subdivision is located in whole or in part, a verified application showing that the needs of such county, city, school district or other municipal subdivision so require, such excise board may make temporary appropriations for lawful current expenses of such county, city, school district or other

municipal subdivision. School districts shall cause the application for the temporary appropriation to be published at least one time in a newspaper of general circulation in the county, at least three (3) days prior to the date on which the excise board shall consider the application for temporary appropriations. No appropriations to school districts shall be made and considered by the excise board in the absence of proper publication as required hereby.

B. Warrants may be drawn against such temporary appropriations pending action by the excise board upon the annual estimate of needs and budget of such county, city, school district or other municipal subdivision for such fiscal year. The amount which may be appropriated by such temporary appropriations shall in no event exceed the entire amount which the governing board, making the application, estimates will be available for the entire fiscal year for each purpose for which a temporary appropriation is requested; provided, however, the limitation on appropriations and any requirement for request or approval of temporary appropriations shall not apply to any city or town if the revenue from the ad valorem tax to the municipal general fund amounted to less than five percent (5%) of the total revenues accruing to the municipal general fund during the prior fiscal year. Such cities and towns may pay for lawful current expenditures pursuant to the estimate of needs as filed by the city or town and pending final action of the excise board.

C. Any such temporary appropriations so approved by the excise board of any county shall, when the annual budget for such county, city, school district or other municipal subdivision is finally approved, be merged in the annual appropriations for the same purposes and any warrant which has been, in the meantime, drawn against such temporary appropriations shall be charged against the final approved annual appropriations of such county, city, school district or other municipal subdivision for the said current fiscal year.

SECTION 6. AMENDATORY 68 O.S. 1981, Section 24101, is amended to read as follows:

Section 24101. Whenever the public welfare or the needs of any county, city, town, or school district shall require, the excise board may, on call of the chairman, convene at any time for the purpose of making supplemental or additional appropriations for current expense purposes; provided, that all such appropriations authorizing the creation of an indebtedness shall come within the limitations of Section 26, Article X, Oklahoma Constitution. No supplemental or additional appropriation shall be made for any county, city, town or school district in excess of the income and revenue provided or accumulated for the year. As to all such proposed appropriations the following procedure shall be followed:

First: The proper officers of the county, city, town or school district shall make and file with the excise board a financial statement showing its true fiscal condition as at the close of the month next preceding or as of May 15 or June 20, or both said dates, preceding the date of filing, and shall submit therewith a statement of the amount and purpose for which each proposed supplemental appropriation is to be used. The financial statement shall show, as to current expense or general fund, the amount of cash in the treasury; the amount of taxes in process of collection as to which the date of sale for delinquency has not elapsed; the amount of the uncollected portion of the estimated income other than ad valorem tax as fixed by the excise board for the current fiscal year; the amount of warrants outstanding and an estimate of the interest accrued and accruing thereon; the amount of unexpended balance of

all appropriations for current expense purposes as to which a period of six (6) months has not elapsed from the date of the close of the fiscal year for which the appropriation was available; and the surplus or deficit in revenue, if any, in each fund.

Second: If the financial statement herein required shall correctly reflect a surplus in revenue in any fund available for current expenses, and the excise board shall so affirmatively find, it may make supplemental appropriations to an amount not exceeding the aggregate of such surplus.

Third: If the surplus of revenue, as found and determined by the excise board, shall be insufficient for the additional needs and requirements of the county, or other municipal subdivision, the excise board shall have the power and authority to revoke and cancel in whole, or in part, any appropriation or appropriations, or parts thereof, previously made to any officer or department of government of any county, city, town or school district and to make in lieu thereof such supplemental and additional appropriations for current expense purpose as the interest of the public may require; provided, that no appropriation or part thereof shall be revoked or canceled against which there may be an unpaid claim or contract pending. The total amount of all such appropriations shall not exceed the aggregate of the amount of appropriations so revoked or canceled, and the surplus or unappropriated revenue, if any, of the county, city, town or school district for which it is proposed to make such additional appropriation; provided, that before any appropriation or part thereof shall be revoked or canceled, the officer or officers in charge of the office or department of government for which any such appropriation is available shall be notified of the proposed revocation or cancellation, and shall be afforded an opportunity, if he so desires, to appear before the excise board and protest against such proposed action. As to counties and, cities and school districts, the financial statement and request for supplemental appropriations herein required to be filed with the excise board shall be published at least one time in some newspaper of general circulation in the county or city for which made, ~~which said.~~ Said publication shall be made at least three (3) days prior to the date on which the excise board shall consider the proposed supplemental or additional appropriations. No appropriations shall be made and considered by the excise board in the absence of the financial statement herein required to be filed.

SECTION 7. AMENDATORY 70 O.S. 1981, Section 5-125, is amended to read as follows:

Section 5-125. A. Every member of the board of education or board of county commissioners who shall hereafter vote for the payment of any money or transfer of any property belonging to the school district in settlement of any claim known to such member to be fraudulent or void, or in pursuance of any unauthorized, unlawful or fraudulent contract or agreement made or attempted to be made, for any school district, by any officer or officers thereof, and every person having notice of the facts with whom such unauthorized, unlawful or fraudulent contract shall have been made, or to whom, or for whose benefit such money shall thereafter be paid, or such transfer of property shall be made, shall be liable in damage to all innocent persons in any manner injured thereby and shall be liable to the school district affected for double the amount of all sums of money so paid, and double the value of property so transferred, as a penalty to be recovered at the by civil suit of brought by the board of education of such school district, or of by any school district elector thereof, as ~~hereinafter~~ provided in Section 5-126 of this Title.

B. Any member of a board of education of a school district who votes for the payment of any money or transfers any property belonging to the school district in settlement of any claim known to such member to be fraudulent, void or in pursuance of any unauthorized, unlawful or fraudulent contract or agreement made or attempted to be made for any such district shall be guilty of a misdemeanor. Every person having notice of the facts with whom any unauthorized, unlawful or fraudulent contract shall have been made or to whom or for whose benefit such money or property shall have been or thereafter will be paid shall be guilty of a misdemeanor. Upon conviction of a misdemeanor described in this section, the person shall make full restitution of all monies and/or property misallocated and be punished by a fine of not less than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not to exceed one (1) year, or by both such fine and restitution and imprisonment and if such person is a member of a board of education, shall be removed from office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et seq. of Title 51 of the Oklahoma Statutes.

C. Such illegal payment of money shall include, but shall not be limited to, salaries or any compensation paid to any person for teaching or performing other services for ~~said~~ the district when such person does not have a written contract required by law or does not hold a valid certificate as required by ~~the Oklahoma School Code law~~ or by rules and regulations of the State Board of Education for the subjects taught or services performed and which is valid for the entire time for which such person has been paid, and any. Any person receiving ~~such an~~ illegal payment knowing or having reasonable cause to believe such payment to be illegal ~~is~~ shall be guilty of a misdemeanor and shall be subject to the punishment prescribed in subsection B of this section.

SECTION 8. AMENDATORY 70 O.S. 1981, Section 5-126, is amended to read as follows:

Section 5-126. Upon refusal, failure or neglect of the board of education of any school district, after written demand made upon them by ten school district electors of such school district, or by the State Board of Education, either to return the money or to institute and diligently prosecute the proper proceedings at law or in equity for the recovery of any money or property belonging to such district, paid out or transferred by any officer thereof, in pursuance of any unauthorized, unlawful, fraudulent or void contract, made or attempted to be made by the board of education of any such school district, or for the penalty provided in ~~the section preceding~~ Section 5-125 of this title, any school district elector of ~~such the school~~ district affected by such payment or transfer, ~~and after giving security for costs,~~ may, in the name of the State of Oklahoma as plaintiff, institute and maintain any proper action at law or in equity which the board of education of the school district might institute and maintain, for the recovery of such property, or for said penalty, for the benefit of the district, and any judgment thus obtained shall provide for payment of attorney fees and court costs to the prevailing party.

SECTION 9. This act shall become effective September 1, 1991.

Passed the House of Representatives the 14th day of May, 1991.

Speaker of the House of
Representatives

Passed the Senate the 16th day of May, 1991.

President of the Senate