

ENROLLED HOUSE
BILL NO. 1932

By: McCorkell, Perry and
Phillips of the House

and

Long (Lewis) and Monson
of the Senate

An Act relating to schools; amending 70 O.S. 1991, Sections 1-118, 5-142, Section 1, Chapter 290, O.S.L. 1993 and 509.6 (70 O.S. Supp. 1993, Section 17-116.10), which relate to building funds, felony record checks for employment and Teachers' Retirement System; modifying authorized uses of building fund monies; modifying applicability of procedure for certain school districts to request criminal records for employment purposes; clarifying language; modifying procedures for certain school districts to request criminal records for employment purposes; authorizing fee; requiring the Oklahoma State Bureau of Investigation to prescribe procedures relating to requests for certain information; modifying limitations on certain post-retirement employment; providing procedure for resolving certain disputes; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 1-118, is amended to read as follows:

Section 1-118. The building fund of any school district shall consist of all monies derived from the proceeds of a building fund levy of not to exceed five (5) mills in any year, voted by the people of a school district pursuant to the provisions of Article X, Section 10, of the Oklahoma Constitution, monies appropriated by the state for the purpose of capital expenditures or projects, monies allocated to a school district by the State Board of Education from the State Public School Building Equalization Fund, and monies donated to a school district for the purpose of capital projects or improvements and may be used for erecting, remodeling ~~or~~, repairing, or maintaining school buildings, ~~and~~ for purchasing furniture, equipment and computer software to be used on or for school district property, for paying energy and utility costs, for purchasing telecommunications services, for paying fire and casualty insurance premiums for school facilities, for purchasing security system, and for paying salaries of security personnel, or for one or more, or all, of such purposes. Proceeds of such levies shall not be required to be used during the year for which a levy is made but may accumulate from year to year until adequate for the purposes intended. The building fund hereinabove defined is hereby declared to be a current expense fund, but shall not be considered a part of the general operating fund. No monies derived from the proceeds of

the school levies made pursuant to the provisions of Article X, Section 9 of the Oklahoma Constitution may be placed in the building fund provided by this section.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 5-142, is amended to read as follows:

Section 5-142. A. The provisions of this section shall apply to a school district with an average daily membership of thirty thousand (30,000) students or less. For purposes of employment, a local board of education may request in writing from the State Board of Education information concerning any felony offense conviction of any employee of the school or any person seeking employment with the school. The request shall specify whether the felony record search is to be based only on the name submitted by the employee or prospective employee or on the basis of fingerprints to be required of the employee or prospective employee. The request shall further specify whether the search is to be a state or national search. If a national search is requested, the search shall be based on fingerprints, and the Oklahoma State Bureau of Investigation shall obtain fingerprints of the employee or prospective employee and require that said person pay a search fee not to exceed Fifty Dollars (\$50.00) or the cost of the search, whichever is the lesser amount. The fees shall be deposited in the OSBI Revolving Fund. School districts are hereby authorized to reimburse employees for the cost of the search. The State Board of Education shall contact the Oklahoma State Bureau of Investigation for any felony record of said person within fourteen (14) working days of receiving a written request from the board of education.

B. The Oklahoma State Bureau of Investigation shall provide the felony record requested by the State Board of Education within fourteen (14) working days from the receipt of said request. The Bureau may contact the Federal Bureau of Investigation as regards the information requested, to obtain any felony convictions of the person involved. The felony record provided by the Oklahoma State Bureau of Investigation shall include the name of the person, whether or not said person has been convicted of any felony offense, a list of any felony convictions, and the dates of such convictions.

C. The State Board of Education shall provide the information received from the Oklahoma State Bureau of Investigation to the local board of education within fourteen (14) days from the receipt of said information.

D. For the purpose of this section, "board of education" includes both public and private boards of education within or outside this state.

E. Each public board of education within this state shall promulgate a statement of that school districts' policy regarding felony record searches. If the policy requires felony record searches, the policy may permit employment for not to exceed sixty (60) days pending receipt of results of felony search requests. If the policy requires a search based on fingerprints, prospective employees shall be notified of the requirement, the fee and the reimbursement policy when first interviewed concerning employment. The school district's reimbursement policy shall provide, at the minimum, that employees shall be promptly reimbursed in full for the fee if employed by the district at the time the felony search request is made unless the person was employed pending receipt of results as set forth above.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-142.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall apply to a school district with an average daily membership in excess of thirty thousand (30,000) students. For purposes of employment, a local board of education may request in writing from the Oklahoma State Bureau of Investigation information concerning any felony offense conviction of any employee of the school or any person seeking employment with the school. The request shall specify whether the felony record search is to be based only on the name submitted by the employee or prospective employee or on the basis of fingerprints to be required of the employee or prospective employee. The request shall further specify whether the search is to be a state or national search. If a state search based on name only is requested, the Oklahoma State Bureau of Investigation may charge a search fee not to exceed Ten Dollars (\$10.00). If a national search is requested, the search shall be based on fingerprints, and the Oklahoma State Bureau of Investigation shall obtain fingerprints of the employee or prospective employee and require that said person pay a search fee not to exceed Fifty Dollars (\$50.00) or the cost of the search, whichever is the lesser amount. The fees shall be deposited in the OSBI Revolving Fund. School districts are hereby authorized to reimburse employees for the cost of the search.

B. The Oklahoma State Bureau of Investigation shall provide the felony record requested by a local board of education within fourteen (14) working days from the receipt of said request. The Bureau shall send a copy of the felony record to the State Board of Education. The Bureau may contact the Federal Bureau of Investigation as regards the information requested, to obtain any felony convictions of the person involved. The felony record provided by the Oklahoma State Bureau of Investigation shall include the name of the person, whether or not said person has been convicted of any felony offense, a list of any felony convictions, and the dates of such convictions.

C. For the purpose of this section, "board of education" includes both public and private boards of education within or outside this state.

D. Each public board of education within this state shall promulgate a statement of that school districts' policy regarding felony record searches. If the policy requires felony record searches, the policy may permit employment for not to exceed sixty (60) days pending receipt of results of felony search requests. If the policy requires a search based on fingerprints, prospective employees shall be notified of the requirement, the fee and the reimbursement policy when first interviewed concerning employment. The school district's reimbursement policy shall provide, at the minimum, that employees shall be promptly reimbursed in full for the fee if employed by the district at the time the felony search request is made unless the person was employed pending receipt of results as set forth above.

E. The Oklahoma State Bureau of Investigation shall prescribe the procedures necessary to ensure that requests submitted are official requests from the local board of education.

SECTION 4. AMENDATORY Section 1, Chapter 290, O.S.L. 1993 (70 O.S. Supp. 1993, Section 17-116.10), is amended to read as follows:

Section 17-116.10 A. A member may enter into post-retirement employment with a public school of Oklahoma and still receive his or her monthly retirement benefits subject to the following limitations:

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar

days between the retiree's last day of pre-retirement public-education employment and any post-retirement public-education employment. For purposes of this section, the term "last day of pre-retirement employment" shall mean the last day the employee is required to be physically present on the job to complete the terms of the employment contract or agreement. Employment under any conditions during this time or payment at a later time for services performed during this time period shall cause the forfeiture of all retirement benefits received during the period;

2. Earnings from the public schools may not exceed one-half (1/2) of the member's final average salary used in computing retirement benefits, or the Earnings Limitation for employees allowed by the Social Security Administration, whichever is less. For retired members, the limit on allowed earnings from public schools of Oklahoma shall be the lesser of Ten Thousand Dollars (\$10,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits unless the earnings limitation for employees allowed by the Social Security Administration would be greater. For purposes of this paragraph, the following shall apply:

- a. earnings shall mean "regular annual compensation" as defined in subsection 25 of Section 17-101 of this title, and shall include any payment by a public school for services rendered by a retired member who is employed for any purpose whatsoever. Supplemental retirement payments paid by a former public school employer pursuant to subsection 9 of Section 17-105 of this title or other state law shall not be considered as earnings,
- b. the Earnings Limitation for employees allowed by the Social Security Administration to workers between the age of sixty-two (62) years and sixty-five (65) years shall apply to retired members below the age of sixty-two (62) years,
- c. the limit on allowed earnings from the public schools shall be automatically adjusted effective the first day of January of each year to reflect the current Earnings Limitation for employees as determined from time to time by the Social Security Administration,
- d. earnings in excess of the maximum limit on allowed earnings from public schools of Oklahoma shall result in a loss of future retirement benefits for the year the post-retirement employment was performed of One Dollar (\$1.00) for each One Dollar (\$1.00) earned over the maximum allowed earnings amount,
- e. ~~for those members who retired prior to July 1, 1993, the limit on allowed earnings from public schools of Oklahoma shall be the lesser of Ten Thousand Dollars (\$10,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits until the Earnings Limitation for employees allowed by the Social Security Administration would be greater,~~
- f. for those members age seventy (70) years and over, the earnings in excess of the maximum limit allowed earnings from public schools of Oklahoma shall be one-half (1/2) the member's final average salary used in computing retirement benefits. However, any retired member receiving benefits from the Retirement System who reached age seventy (70) years prior to July 1, 1991, shall not be restricted by the earnings limits pursuant to this subparagraph until January 1, 1994.

To qualify for the provisions of this subparagraph, the member must be employed less than one-half (1/2) time compared to other full-time employees in similar positions.

B. For purposes of this section, post-retirement employment of less than one thousand (1,000) hours per year with the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall not be considered as post-retirement employment with a public school of Oklahoma.

C. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this section.

D. A member who has entered into post-retirement employment with a participating employer of the Teachers' Retirement System of Oklahoma must fully comply with all the provisions of the rules promulgated by the Board of Trustees pursuant to this section in order to continue receiving his or her monthly retirement benefit.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 509.6, is amended to read as follows:

Section 509.6 Once an organization has been recognized, the board of education or its duly designated representative must meet with the duly designated representative of the organization and within sixty (60) days shall complete an agreement outlining negotiation procedures. The board of education and the representatives of the organization must negotiate in good faith on wages, hours, fringe benefits and other terms and conditions of employment. To negotiate in good faith shall mean both parties must be willing to consider proposals in an effort to find a mutually satisfactory basis for agreement and must be willing to discuss their respective contract proposals. If either party objects to the other's contract proposals, the objecting party must support its objections with rationale. Any allegation by either party that there has been a failure to comply with the provisions of this section shall be resolved through the dispute resolution procedure for resolving a unit determination dispute as set forth in subsection A of Section 509.2 of this title.

SECTION 6. This act shall become effective September 1, 1994.

Passed the House of Representatives the 26th day of May, 1994.

Speaker of the House of
Representatives

Passed the Senate the 26th day of May, 1994.

President of the Senate