

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 663

By: Long (Ed) of the Senate

and

Hager of the House

(schools - attributes of valid certificate - exception to
certain class size limitation - effective date -
emergency)

AUTHOR: Add the following House Coauthor: Weaver

AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

"(schools - amending 70 O.S., Section 6-105 - substitute
teachers - amending 70 O.S., Sections 18-113.1, 18-113.2
and 18-113.3 - codification - effective date - emergency
)

SECTION 1. AMENDATORY 70 O.S. 1991, Section 6-105, as
amended by Section 1, Chapter 205, O.S.L. 1994 (70 O.S. Supp. 1994,
Section 6-105), is amended to read as follows:

Section 6-105. A. If, because of sickness or other reason, a
teacher is temporarily unable to perform his or her regular duties,
a substitute teacher for his or her position may be employed for the
time of such absence. A substitute teacher shall be paid in an

amount and under such terms as may be agreed upon in advance by the substitute teacher and the board of education or according to regulations of the board. A teacher absent for reason of personal business shall have deducted from ~~his~~ the salary of the teacher by the school district only the amount necessary to pay the substitute.

No substitute teacher shall be employed for a total period of time in excess of seventy (70) school days during a school year unless he or she is the holder of a valid certificate. Except as provided in this section, a substitute teacher may not be employed for the same assignment for more than twenty (20) school days during a school year unless ~~he or she~~ the substitute teacher is the holder of ~~a~~ any valid certificate issued or recognized by the State Board of Education authorizing the teacher to teach. Substitute teachers who do not hold ~~a~~ any valid certificate issued or recognized by the State Board of Education authorizing the teacher to teach and who are employed to teach special education for physically handicapped students or mentally retarded students shall not be subject to the restrictions on total time a substitute teacher may be employed or the restrictions on time in the same assignment if no certified teachers are available to teach such students and the students would be denied instruction in special education if the substitute teacher were not employed. Availability of certified teachers shall be determined after the school has consulted the State Board of Education and any other resources for filling the vacant position with a certified teacher. Payment of salary to a substitute shall have no effect on the amount of salary to which the absent regular teacher is entitled under the applicable leave plan.

B. Any substitute or cadet teacher employed in any school system on a monthly or annual basis shall hold a certificate and have a written contract in the manner and under the same conditions as for regular teachers.

C. Teachers who are members of the Reserve Forces of the Army, the Navy, the Marine Corps, the Coast Guard, the Air Force, or any other component of the Armed Forces of the United States, including members of the Air or Army National Guard, shall, when ordered by the proper authority to active duty or service, be entitled to a leave of absence from such civil employment for the period of such active service without loss of status or efficiency rating and without loss of pay during the first thirty (30) days of such leave of absence.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 18-113.1, as amended by Section 15, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1994, Section 18-113.1), is amended to read as follows:

Section 18-113.1 A. The provisions of this subsection shall apply only to grades one through three.

1. Except as otherwise provided for in this section, no child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes:

- ~~a. for the 1989-90 school year, more than twenty-two (22) students;~~
- ~~b. for the 1990-91 school year through the 1992-93 school year, more than twenty-one (21) students; and~~
- ~~c. for the 1993-94 school year and each school year thereafter, more than twenty (20) students.~~

2. If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size limitation and penalty shall not apply if:

- a. the creation of an additional class would cause a class to have fewer than ten (10) students; and
- b. a teacher's assistant, as defined in Section 6-127 of this title, is employed to serve with each teacher in

a class that exceeds the class size limitation provided for in this subsection.

3. No school district shall be penalized for initially exceeding class size limitations during the last nine (9) weeks of the school year.

~~4. No school district shall be penalized for exceeding the class size limitations for the 1988-89 school year which were established by this subsection prior to the effective date of this act unless:~~

~~a. the school district had a general fund balance for fiscal year 1988 in excess of twenty percent (20%) of the district's receipts or expenditures, whichever is less, for that year; or~~

~~b. the number of students per class exceeded thirty-three (33) and a full-time teaching assistant was not present.~~

~~5. For each child in excess of the class size membership, the district~~ Any school district found to be in violation of the provisions of this subsection shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:

a. Subtract twenty (20) from the number of students in the class, and

b. Multiply each pupil in excess of the class size membership limit as provided in this subsection the remainder from subparagraph a of this paragraph by the pupil grade level weight and then by the Base Foundation Support Level for the current school year as provided in the State Aid formula, and

c. Subtract twenty (20) from the number of students in the class, and

~~b. d. Multiply each pupil in excess of the class size membership limit as provided in this subsection~~

the remainder from subparagraph c of this paragraph by the pupil grade level weight and then by the Incentive Aid guarantee for the current school year as provided in the State Aid formula times twenty (20), and

~~e. e.~~ Sum the products of subparagraphs ~~a b~~ and ~~b d~~ of this paragraph.

B. The provisions of this subsection shall apply only to grades four through six.

1. Except as otherwise provided for in this section, no child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes:

~~a. for the 1989-90 school year, more than twenty-five (25) students;~~

~~b. for the 1990-91 school year, more than twenty-three (23) students;~~

~~c. for the 1991-92 school year, more than twenty-two (22) students;~~

~~d. for the 1992-93 school year, more than twenty-one (21) students; and~~

~~e. for the 1993-94 school year and each school year thereafter, more than twenty (20) students.~~

2. If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size limitation and penalty shall not apply if the creation of an additional class would cause a class to have fewer than sixteen (16) students.

3. No school district shall be penalized for initially exceeding class size limitations during the last nine (9) weeks of the school year.

4. ~~For each child in excess of the class size membership, the district~~ Any school district found to be in violation of the provisions of this subsection shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:

- a. Subtract twenty (20) from the number of students in the class, and
- b. ~~Multiply each pupil in excess of the class size membership limit as provided in this subsection~~ the remainder from subparagraph a of this paragraph by the grade level weight and then by the Base Foundation Support Level for the current school year as provided in the State Aid formula, and
- c. Subtract twenty (20) from the number of students in the class, and
- ~~b.~~ d. ~~Multiply each pupil in excess of the class size membership limit as provided in this subsection~~ the remainder from subparagraph c of this paragraph by the grade level weight and then by the Incentive Aid guarantee for the current school year as provided in the State Aid formula times twenty (20), and
- ~~e.~~ e. Sum the products of subparagraphs ~~a~~ b and ~~b~~ d of this paragraph.

C. ~~The provisions of this subsection shall apply only to grades seven through nine.~~

1. ~~Except as otherwise provided for in this section, no child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes more than thirty-six (36) students.~~

2. ~~If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size~~

~~limitation and penalty shall not apply if the creation of an additional class would cause a class to have fewer than sixteen (16) students.~~

~~3. For each child in excess of the class size membership, the district shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:~~

~~a. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Base Foundation Support Level for the current school year, and~~

~~b. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Incentive Aid guarantee for the current school year times twenty (20), and~~

~~c. Sum the products of subparagraphs a and b of this paragraph.~~

~~D.~~ Classes in the following subjects shall not be subject to the class size limitations provided for in subsections A, B and C of this section:

1. Physical education; and
2. Chorus, band, orchestra and similar music classes.

~~E.~~ D. If a school district groups its grades as grades one through five, grades six through eight, and grades nine through twelve, then as to such district the provisions of subsection B of this section shall apply to grades four and five rather than grades four through six, and ~~subsection C of this section~~ the provisions of Section 18-113.3 of this title shall apply to grades six through eight rather than grades seven through nine twelve.

~~F.~~ E. Any class size violations shall result in denial of accreditation in accordance with the requirements of Section 3-104.4 of this title.

~~G.~~ F. Any school district which at the beginning of the school year does not have sufficient classrooms to meet the class size limitation provided for in this section as determined by guidelines established by the State Board of Education shall not be penalized for failure to meet the class size limitations provided for in this section if:

- a. the school district has voted indebtedness, at any time within the five (5) years preceding the year the district exceeds the class size limitations or during the year the district exceeds the class size limitations, through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Equalization Board for the current school year and certifications by the Attorney General prior to February 1 of the current school year; and
- b. on the date of filing of the school district budget with the State Equalization Board, the school district is voting the maximum millage allowable for the support, maintenance and construction of schools as provided for in subsections (a), (c), (d) and (d-1) of Section 9 of Article X of the Oklahoma Constitution and Section 10 of Article X of the Oklahoma Constitution.

~~H.~~ G. Any school district which exceeds the class size limitations as set forth in this section shall submit a written report to the State Board of Education, on or before July 1 of each year, setting forth the procedures that the district will follow in order to comply with this section.

~~I.~~ H. School districts which receive state-appropriated funds pursuant to the provisions of Section 18-112.2 of this title and do not comply with the provisions of this section shall be subject to loss of State Aid for each child in excess of the class size limitations specified in this section.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 18-113.2, is amended to read as follows:

Section 18-113.2 A. The provisions of this section shall apply only to kindergarten.

1. No child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes:

- ~~a. for the 1989-90 school year, more than twenty-five (25) students;~~
- ~~b. for the 1990-91 school year, more than twenty-four (24) students;~~
- ~~c. for the 1991-92 school year, more than twenty-three (23) students;~~
- ~~d. for the 1992-93 school year, more than twenty-two (22) students; and~~
- ~~e. for the 1993-94 school year and each school year thereafter, more than twenty (20) students.~~

2. If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size limitation and penalty shall not apply if:

- a. the creation of an additional class would cause a class to have fewer than ten (10) students; and
- b. a teacher's assistant, as defined in Section 6-127 of this title, is employed to serve with each teacher in a class that exceeds the class size limitation provided for in this subsection.

3. No school district shall be penalized for initially exceeding class size limitations during the last nine (9) weeks of the school year.

4. Any school district which at the beginning of the school year does not have sufficient classrooms to meet the class size limitation provided for in this section as determined by guidelines established by the State Board of Education shall not be penalized for failure to meet the class size limitations provided for in this section if:

- a. the school district has voted indebtedness, at any time within the five (5) years preceding the year the district exceeds the class size limitations or during the year the district exceeds the class size limitations, through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Equalization Board for the current school year and certifications by the Attorney General prior to February 1 of the current school year; and
- b. on the date of filing of the school district budget with the State Equalization Board, the school district is voting the maximum millage allowable for the support, maintenance and construction of schools as provided for in subsections (a), (c), (d) and (d-1) of Section 9 of Article X of the Oklahoma Constitution and Section 10 of Article X of the Oklahoma Constitution.

5. ~~For each child in excess of the class size membership, the district~~ Any school district found to be in violation of the

provisions of this subsection shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:

- a. Subtract twenty (20) from the number of students in the class, and
- b. ~~Multiply each pupil in excess of the class size membership limit as provided in this subsection~~ the remainder from subparagraph a of this paragraph by the pupil grade level weight and then by the Base Foundation Support Level for the current school year, as provided in the State Aid formula, and
- ~~b.~~ c. Subtract twenty (20) from the number of students in the class, and
- d. ~~Multiply each pupil in excess of the class size membership limit as provided in this subsection~~ the remainder from subparagraph c of this paragraph by the pupil grade level weight and then by the Incentive Aid guarantee for the current school year, as provided in the State Aid formula, times twenty (20), and
- ~~e.~~ e. Sum the products of subparagraphs ~~a~~ b and ~~b~~ d of this paragraph.

B. Any class size violations shall result in denial of accreditation in accordance with the requirements of Section 3-104.4 of this title.

C. School districts which receive state-appropriated funds pursuant to the provisions of Section 18-112.2 of this title and do not comply with the provisions of this section shall be subject to loss of State Aid for each child in excess of the class size limitations specified in this section.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 18-113.3, as amended by Section 7, Chapter 361, O.S.L. 1993 (70 O.S. Supp. 1994, Section 18-113.3), is amended to read as follows:

Section 18-113.3 A. Class size, as used in ~~Section~~ Sections 18-113.1 and ~~Section~~ 18-113.2 of ~~Title 70 of the Oklahoma Statutes~~ this title, shall be determined by the average daily membership divided by the full-time equivalency of the instructional staff assigned to each grade level by site; provided, for computation of reduction of payment of state-appropriated funds for the 1990-91 school year only, average daily attendance shall be used rather than average daily membership. Full-time equivalency of special education teachers, Chapter 1 teachers, and teachers of classes not subject to class size limitations and the average daily membership of self-contained special education classes shall not be counted in class size computation.

B. As used in this section, self-contained special education classes are those classes whose students attend the same class for three (3) or more class periods and who have individualized education plans.

C. Beginning with the 1993-94 school year, no teacher as specified in this subsection who is counted in class size computation for grades seven through twelve shall be responsible for the instruction of more than one hundred forty (140) students on any given six-hour school day. ~~Beginning with the 1997-98 school year, no teacher who is counted in class size computation for grades seven through twelve shall be responsible for the instruction of more than one hundred twenty (120) students on any given six-hour school day.~~

D. Students within a class which is not subject to class size limitations pursuant to subsection ~~D~~ C of Section 18-113.1 of this title shall not be counted for purposes of the limitations set forth in subsection C of this section.

E. ~~Provided, for~~ Beginning with the ~~1993-94~~ 1995-96 school year and each school year thereafter, upon application to and approval by the State Board of Education, a district board of education may deregulate from the provisions in subsection C of this section as it

relates to student-teacher ratio for grades seven through twelve. The State Board of Education shall promulgate rules providing for such deregulation. The State Board of Education shall approve such deregulation application upon determination that the applicant district has complied with the following conditions:

1. The district board of education has caused a notice of intent to request deregulation pursuant to this subsection in grades seven through twelve to be published in a newspaper of general circulation in the county where the district is located and has caused the notice of intent to be posted in a conspicuous place within the offices of the district's administration ten (10) days before the application for deregulation pursuant to this subsection is submitted to the State Board of Education; and

2. The school site for which deregulation has been requested has:

a.—consistently demonstrated performance which exceeds the fiftieth percentile on the state achievement tests, as provided in subsection A of Section 1210.508 of this title, in grades seven through twelve,

b.—a dropout rate which is less than the state average, and

c.—fully complied with the rules of the State Board of Education regarding deregulation.

F. For the purpose of determining whether a penalty for exceeding class size limitations shall apply, a federally funded bilingual assistant shall not qualify as a teacher's assistant.

G. No school district shall be penalized for initially exceeding the class size limitations during the last nine (9) weeks of the school year.

H. Any school district found in violation of the provisions of this section shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:

1. Subtract one hundred forty (140) from the number of students for which a teacher is responsible for instruction in a six-hour school day;

2. Multiply the remainder from paragraph 1 of this subsection by the pupil grade level weight and then by the Base Foundation Support Level for the current school year as provided in the State Aid formula;

3. Subtract one hundred forty (140) from the number of students for which a teacher is responsible for instructor in a six-hour school day;

4. Multiply the remainder from paragraph 3 of this subsection by the pupil grade level weight and then by the Incentive Aid guarantee for the current school year as provided in the State Aid formula times twenty (20); and

5. Sum the products of paragraphs 2 and 4 of this subsection.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 37 of Title 38, unless there is created a duplication in numbering, reads as follows:

No school, college, university, or other educational institution may take or permit to be taken any adverse academic action against a student because of the student's service on a grand, multicounty grand, or petit jury.

SECTION 6. This act shall become effective July 1, 1995.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 18th day of April, 1995.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate