

ENGROSSED HOUSE  
BILL NO. 2309

By: Deutschendorf, Tyler,  
Kirby, Anthony and Wells  
of the House

and

Long (Lewis) of the  
Senate

( schools - amending 70 O.S., Sections 6-105, 6-108,  
6-127 and 18-113.1 - substitute teachers - codification -  
emergency )

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

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. 1995, 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 salary 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 any 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 is the holder of a valid certificate. Substitute teachers who do not hold a any valid certificate 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 6-108, as amended by Section 12, Chapter 257, O.S.L. 1993 (70 O.S. Supp. 1995, Section 6-108), is amended to read as follows:

Section 6-108. A. Except for service as a director of a public developmental research school and service by a faculty member of a higher education institution affiliated with a public developmental research school as specifically authorized in Section 1210.577 of this act title or otherwise provided for in this section, it shall be unlawful for any person to serve, or to contract or agree to serve, as superintendent, elementary superintendent, principal, supervisor, librarian, school nurse, classroom teacher or other instructional, supervisory or administrative employee of a school district unless ~~such~~ the person holds a valid certificate of qualification issued in accordance with the rules of the State Board of Education to perform the services the person performs or contracts or agrees to perform. The State Board of Education shall provide for the certification of elementary superintendents.

B. A school district may employ a teacher or allow a teacher under contract with the school district to teach a grade level or a curricular area in which the teacher is not licensed on a temporary basis to accommodate increases or decreases in student population. The placement of the teacher shall be for no longer than one (1) semester. The teacher shall be required to hold a valid certificate or be licensed in the teaching profession.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 6-127, is amended to read as follows:

Section 6-127. A. Beginning with the 1990-91 school year, every school site shall employ a teacher's assistant or use a volunteer for each class in grades kindergarten through two which has a class size of more than twenty (20) students in average daily membership as of September 15 of each year and which is composed of students, at least twenty percent (20%) of whom meet the criteria

specified in subsection B of this section; provided, this requirement shall not apply to classes that are not subject to class size limitations pursuant to subsection D of Section 18-113.1 of this title or to pull-out sections for Chapter 1 or to Special Education students. Assistants shall be required as of September 15 of each year. The State Board of Education shall establish ~~regulations~~ rules that prescribe the qualifications for and duties of teacher assistants in public schools. The State Board of Education shall also establish standards and ~~regulations~~ rules which provide for a determination of how and when teacher assistants may be used as an appropriate and necessary part of classroom instruction. The Board shall also explore means by which to foster the appropriate expanded use of teacher assistants. In addition to any other duties which the Board may deem appropriate, teacher assistants may perform or assist a classroom teacher in the performance of hallroom duty, bus duty, playground duty, lunchroom duty, extracurricular activities involving school functions, monitor interactive video instructional programs or classes taught through distance learning technology or any other noninstructional duty the Board may prescribe. ~~Provided, nothing~~ Nothing in this section shall construe teacher assistants to be defined as personnel as set out in Section 6-108 of this title or require teacher assistants to possess the certification required for teachers.

B. Any student who meets the criteria established by the State Board which are commensurate with established eligibility criteria for participation in the National School Lunch Act of 1946, 42 U.S.C. Section 1751 et seq. as amended, shall be included in the percentage necessary to meet the requirement of subsection A of this section for the entitlement to a teacher's assistant for such class.

C. For the purposes of this section, and for Sections 18-113.1 and 18-113.2 of this title, a federally funded bilingual assistant shall not qualify as a teacher's assistant.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-131 of Title 70, unless there is created a duplication in numbering, reads as follows:

The State Board of Education shall promulgate rules which establish personnel requirements related to interactive video programs or classes taught through distance learning technology.

The rules shall allow

noncertified persons or teacher assistants to monitor certain distance learning classrooms and establish conditions when remote classes linked through interactive video instruction would not require a teacher assistant as a monitor.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 18-113.1, as amended by Section 15, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1995, 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 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.

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 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.

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 and classes taught through distance learning technology 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. 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 shall apply to grades six through eight rather than grades seven through nine.

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

G. 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. 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. 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 6. 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 29th day of February, 1996.

Speaker of the House of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1996.

President

of the Senate