ENROLLED SENATE
BILL NO. 662

By: Long (Ed) of the Senate

and

Adair of the House

An Act relating to public libraries; amending 65 O.S. 1991, Section 1-104, as amended by Section 1, Chapter 322, O.S.L. 1992, and Section 5, Chapter 321, O.S.L. 1992 (65 O.S. Supp. 1994, Sections 1-104 and 4-115), which relate to public libraries and county public library boards; defining certain term; clarifying certain definition; amending 70 O.S. 1991, Section 5-117, as last amended by Section 4, Chapter 362, O.S.L. 1994 (70 O.S. Supp. 1994, Section 5-117), relating to powers and duties of district boards of education; authorizing district boards of education to enter into contracts for certain library services with rural single county library systems; authorizing creation and maintenance of rural single county library systems; requiring certain systems to be accredited by Oklahoma Department of Libraries Board; authorizing support of certain library systems by certain levies; authorizing incorporation of certain libraries in certain systems; clarifying legal relationships; providing procedures for creation of certain library systems; requiring approval of Oklahoma Department of Libraries Board; stating content of certain ordinances and resolutions; authorizing appointment of certain board for certain system; authorizing certain board to call certain vote on certain ad valorem taxation question; authorizing proposal of certain system upon certain resolutions by certain municipalities and upon certain petitions by certain citizens; stating requirements of certain petitions; requiring certain application to be filed with certain board; authorizing certain system to enter into contracts with certain entities; authorizing certain library systems to join other library systems; requiring certain procedures for certain joinder; providing for termination of certain library systems; stating requirements for termination; providing for certain board of trustees of certain system; providing for members and terms of certain boards; limiting terms of certain board members; stating ending date of certain terms; providing conditions for removal of certain board members; prohibiting certain persons from serving on certain boards; authorizing reimbursement of certain board

members for travel expenses; authorizing certain memberships to be paid from certain board system funds; providing for election of officers of certain board; requiring adoption of rules; subjecting certain board to Oklahoma Open Meeting Act; defining quorum for certain board; stating powers and duties of certain board; requiring certain board to prepare annual budget; requiring filing of budget with certain boards and municipalities; requiring audit of certain board; requiring submission of certain audit to certain boards and municipalities; providing for disposition of assets of certain system; requiring approval of certain board for disposition; placing certain funds under control of certain board; authorizing certain vouchers; requiring posting of certain bond; authorizing appointment of certain librarian by certain board; stating qualifications of certain librarian; stating powers and duties of certain librarian; authorizing certain librarian to appoint and remove certain employees; authorizing certain system employees to participate in certain county and state retirement and health programs; requiring participation in certain retirement and health programs to be paid by certain board; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 65 O.S. 1991, Section 1-104, as amended by Section 1, Chapter 322, O.S.L. 1992 (65 O.S. Supp. 1994, Section 1-104), is amended to read as follows:

Section 1-104. When used in this Code unless the context otherwise requires:

(a) The term "library system" shall mean a unified public library organization under single direction in an area of not less than one county.

(b) The term "public library" shall mean a library or library system that is freely open to all persons under identical conditions, and which is supported in whole or in part by public funds.

(c) The term "metropolitan library" shall mean a library system which is the public library for a county in which is located a city of at least two hundred fifty thousand (250,000) population.

(d) The term "multicounty library" shall mean a library system which is the public library for a library district composed of two or more counties.

(e) The term "special library" shall mean any library, whether open to the general public or not, that is supported in whole or in part by public funds and which comes within one or more of the following categories:

(1) All libraries which are operated within or as an integral part of a publicly supported institution.

(2) All libraries that cater to a special clientele.

(3) All libraries that are concerned primarily with materials on a special subject.

Provided, however, that this definition shall not be construed to include libraries operated as a part of any university, college, school, museum, the Oklahoma Historical Society and county law libraries.

(f) The word "library" shall mean the contents as well as the building, equipment and facilities of the institution.

(g) The word "Department" shall mean the Oklahoma Department of Libraries, which shall be the official library and archival agency of the state.

(h) The word "Board" shall mean the Oklahoma Department of Libraries Board.

(i) The word "standards" shall mean the criteria pertaining to the scope and quality of library facilities, levels of financial support, adequacy and qualifications of personnel, organization and resources for service, areas of service and population to be served, and other factors deemed necessary to insure proper, economical and effective use of funds and resources in providing library facilities and services.

(j) The term "accreditation of libraries" shall mean the evaluation and rating of public libraries and library systems.

(k) The word "Director" shall mean the Director of the Department who shall be the State Librarian and the State Archivist.

(l) The term "county library" means a public library established, supported, and maintained by county taxation.

(m) The term "municipal library" means a public library established, supported, and maintained through taxation by a city or town whose library board of trustees is appointed pursuant to municipal authority.

(n) The term "city-county library" means a library system which consists of a public library for a county in which the population is at least 100,000.

(o) The term "rural single county library" means a library system which consists of a public library for a county in which the population is less than one hundred thousand (100,000) and which is supported by ad valorem taxation designated for the support of the county library system.

SECTION 2. AMENDATORY Section 5, Chapter 321, O.S.L. 1992 (65 O.S. Supp. 1994, Section 4-115), is amended to read as follows:

Section 4-115. Except as otherwise provided in this section, the board of county commissioners, in counties which do not have countywide library services through a rural single county library or as otherwise determined by the Oklahoma Department of Libraries, may appoint a public library board consisting of not less than five nor more than seven members. There shall be at least one member appointed from each of the county commissioner districts. Additional members shall be appointed as follows:

1. One member appointed by the municipal governing board of the county seat; ~~or~~ and

2. If the county seat is not the municipality having the largest population, then one member to be appointed by the municipal governing board of the municipality having the largest population. Initial appointments shall be distributed among one-, two- and three-year terms, with two of the appointments to be made for one year, two to be made for two (2) years and three to be made for three (3) years. Subsequent appointments shall be for three-year terms, except in the case of an appointment to fill a vacancy in the membership of the board, which appointment shall be for the remainder of the unexpired term of the member when death, resignation or removal has created the vacancy. No person shall

serve more than two (2) successive terms or be appointed for another full term or temporary term until at least two (2) years have elapsed from the end of the second successive term until the beginning of the new term. All tenure of initial and future appointees shall expire on June 30 of the designated year. A member of a board once qualified can thereafter be removed by the appointive authority during his or her term of office only for misconduct or neglect of duty.

Appointments to the board shall be made on the basis of ability, a sound understanding of the total responsibilities and objectives of public libraries and an active interest in the attainment of these comprehensive goals. Appointive members shall be qualified electors and bona fide residents of the county.

All board members shall serve thereon without compensation except actual and necessary travel expenses as authorized by the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. Individual memberships for board members in state, regional, and national library associations and expenses incurred in attending board meetings and other library and library-related meetings may be paid from library funds upon proper authorization of the board.

If a multicounty library system or a rural single county library system is formed on or after July 1, 1992, which includes a county with a public library board and provides countywide service to the county, the public library board appointed pursuant to this section may be terminated. All powers, duties and responsibilities of the public library board may be transferred to the Board of Trustees of the multicounty library system or the rural single county library system.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 5-117, as last amended by Section 4, Chapter 362, O.S.L. 1994 (70 O.S. Supp. 1994, Section 5-117), is amended to read as follows:

Section 5-117. A. The board of education of each school district shall have power to:

1. Elect its own officers;

2. Make rules, not inconsistent with the law or rules of the State Board of Education, governing the board and the school system of the district;

3. Maintain and operate a complete public school system of such character as the board of education shall deem best suited to the needs of the school district;

4. Designate the schools to be attended by the children of the district;

5. Provide and operate, when deemed advisable, cafeterias or other eating accommodations, thrift banks or other facilities for the teaching and practice of thrift and economy, bookstores, print shops, and vocational and other shops;

6. Provide informational material concerning school bond elections and millage elections, including but not limited to all pertinent financial information relative to the bond issue, a statement of revenue sources necessary to retire proposed bonds, a statement of current bonded indebtedness of the school district, and a statement of proposed use of funds to be generated by the proposed bond issue. The informational material shall not contain the words "vote yes" or "vote no" or any similar words or statement any place on such informational material;

7. Purchase, construct or rent, and operate and maintain, classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation places and playgrounds, teacherages, school bus garages,

laboratories, administration buildings, and other schoolhouses and school buildings, and acquire sites and equipment therefor;

8. Have school district property insured;

9. Acquire property by condemnation proceedings in the same manner as land is condemned for railroad purposes. School district funds may be used to erect buildings on leased land on which other buildings have been erected prior to April 3, 1969, or on land which is leased from a governmental entity;

10. Lease real or personal property to the state or any political subdivision thereof for nominal cash consideration for so long as the use of the property by the lessee substantially benefits, in whole or in part, the same public served by the school district;

11. Dispose of personal or real property no longer needed by the district by sale, exchange, lease, lease-purchase, sale and partial lease back, or otherwise. Real property shall be conveyed pursuant to a public sale, public bid, or private sale, provided however, unless otherwise prohibited by law, the board of education of a consolidated or annexed school district may convey real property to a local political subdivision without consideration. Prior to the sale of any real property, the board of education shall have the real property appraised. The appraisal shall be confidential until the real property is sold. When the real property is sold the board of education shall make the appraisal available for public inspection. Prior to the conveyance of any real property by private sale, the board of education shall have offered the real property for sale by public sale or public bid. Any conveyance of real property by private sale to a nonprofit organization, association, or corporation to be used for public purposes, unless for exchange, shall contain a reversionary clause which returns the real property to the board of education upon the cessation of the use without profit or for public purposes by the purchaser or the assigns of the purchaser;

12. Purchase necessary property, equipment, furniture, and supplies necessary to maintain and operate an adequate school system;

13. Incur all expenses, within the limitations provided for by law, necessary to perform all powers granted by the provisions of this section;

14. Contract with and fix the duties and compensation of physicians, dentists, optometrists, nurses, attorneys, superintendents, principals, teachers, bus drivers, janitors, and other necessary employees of the district and pay their necessary itemized and documented travel expenses, and pay necessary itemized and documented travel expenses of members of the board of education;

15. Pay necessary itemized and documented travel expenses and other related expenses of prospective employees for sponsored visits to the school district;

16. Provide for employees' leaves of absence without pay;

17. Exercise sole control over all the schools and property of the district, subject to other provisions of the Oklahoma School Code;

18. Allow district-owned school buses to be used for transportation of students from other districts or educational institutions while within the district on educational tours. This shall not restrict the authority of the board to authorize any other use of such buses which may now be permitted by law or rule of the State Board of Education; and

19. Enter into contractual agreements with the board of trustees of a multicounty library system, as defined in Section 4-

103 of Title 65 of the Oklahoma Statutes, ~~or~~ a city-county library commission, as defined in Section 152 of Title 65 of the Oklahoma Statutes, <u>or a rural single county library system, as defined in Section 1 of this act,</u> on such terms as may be mutually agreed, except no district board of education may enter into any agreement under which the library services for the school would be provided at any site other than the school site or which would result in library services that do not meet accreditation standards as required by law or rule.

B. The board of education of any school district may rent, on a monthly basis, equipment and furniture, if such items are necessary for the operation of the school, and pay the rental charges for said usage during any fiscal year, or portion thereof, out of appropriations made and approved for current expense purposes during said fiscal year. Any such rental contract extending beyond June 30 of such fiscal year shall be void unless it contains provisions for mutual ratification of renewal pursuant to the conditions provided for in this subsection. It is the intent of this subsection to authorize boards of education to enter into lease contracts but not to incur any obligation against the school district in excess of the income and revenue provided for such purposes for the fiscal year in which such lease contract is operative. Any lease agreement entered into by any board of education shall state the purchase price of equipment or furniture so leased. The lease shall not be extended so as to cause payment of more than the original purchase price of said equipment or furniture, plus interest not to exceed the legal rate. When said purchase price plus interest has been paid, the property shall belong to the lessee and the lessor shall deliver a deed or bill of sale to said property to the lessee. When any equipment or furniture has been leased or rented during any fiscal year pursuant to the provisions of any contract which permits continuance of such rental for the remainder of such fiscal year, the renting or leasing thereof must be continued for the remainder of said fiscal year unless the board of education renting or leasing the same certifies by proper resolution entered in the minutes of said board of education that the continuance of such rental is unnecessary and contrary to the public interest.

C. The boards of education of two or more school districts may enter into cooperative agreements and maintain joint programs including but not limited to, courses of instruction for handicapped children, courses of instruction in music and other subjects, practical instruction for trades and vocations, practical instruction in driver training courses, and health programs including visual care by persons legally licensed for such purpose, without favoritism as to either profession. The revenues necessary to operate a joint program approved in cooperative agreements, whether from federal, state or local sources, including the individual contributions of participating school districts, shall be deposited into a fund separate from all other appropriated funds. The beginning fund balance each year, combined with all actual revenues, including collected and estimated revenues, must be appropriated before being expended. Purchase orders shall be issued against available appropriations and, once goods or services have been received, either payable or nonpayable warrants shall be issued in payment of all purchase orders. The fund shall be reported as a separate appropriated fund in all the financial reports of the school district which is chosen by the other school districts to keep the accounting records of the joint program.

D. Any school district may operate or maintain a school or schools on any military reservation which is within the boundaries

of the school district or which is adjacent to the school district, and provide the instruction in the school or schools to children of personnel on the military reservation and, in doing so, shall conform to all federal laws and requirements.

E. The board of education of each school district shall adopt and maintain on file in the office of the superintendent of schools appropriate personnel policy and sick leave guide. The guide shall be made available to the public.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-201 of Title 65, unless there is created a duplication in numbering, reads as follows:

Counties, cities and towns are hereby authorized and empowered to join in creation, development, operation and maintenance of public libraries to serve rural single county library systems, and to appropriate and allocate funds for the support of such systems. The systems shall provide equitable library services to all persons in the county.

After establishment a rural single county library system must be accredited by the Oklahoma Department of Libraries Board.

Special levies of any and all taxes authorized to be levied by counties, cities and towns under Oklahoma Statutes and the Oklahoma Constitution are hereby authorized to be levied for support of rural single county library systems.

When any rural single county library system is established, existing public libraries in the county may be incorporated into the system under a unified administration by act of local governing bodies or vote of the people as provided in the procedure for establishment of the rural single county library systems. Existing public libraries in the county that are not incorporated into the system shall have the same relationship to the system as similar public libraries outside the county have to the local system and to other systems.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-202 of Title 65, unless there is created a duplication in numbering, reads as follows:

A rural single county library system may be created by resolution or ordinance approved by the board of county commissioners or by the governing bodies of all cities or towns of two thousand (2,000) or more according to the most recent federal decennial census within the proposed district, or by the county seat town if no city or town within the county has a population of at least two thousand (2,000), subject to approval by the Oklahoma Department of Libraries Board. The resolution and ordinances shall specify the type of system to be created, the county to be serviced, organization of the governing board of the system, and proposed financing including agreement to call for a vote of the people as necessary for special tax levies. The resolution shall constitute application for approval by the Oklahoma Department of Libraries Board when submitted to the Board.

Upon approval of the proposed system by the Oklahoma Department of Libraries Board, the county, city and town governing bodies may proceed with appointment of the system board and financing.

The system board may request demonstration library services by the Oklahoma Department of Libraries before approval of special tax levies and may request a grant of funds for interim services before collection of special tax levies by the people of the district.

A rural single county library system may be proposed upon resolution or ordinance of the city and town governing bodies as provided in this section or upon presentation of petitions to the board of county commissioners of the county signed by not less than

ten percent (10%) of the qualified electors of each county voting in the last general election requesting a vote on library funding. Upon receipt of such petitions, the board of county commissioners shall call a countywide vote on the proposed system funding. Upon approval of the proposed ad valorem levy in a countywide vote, the board of county commissioners shall submit application for approval of the system to the Oklahoma Department of Libraries Board. The application shall specify the type of system to be created, the county to be served, organization of the governing board of the system including a list of board members and their terms, and the financing arrangement including the record of the vote of the people for special tax levies.

The board of county commissioners and the governing boards of cities and towns involved in creating the system and the governing board of the library system are authorized to enter into contracts and agreements with each other, other library systems, special libraries, school and college libraries, district boards of education, and the Oklahoma Department of Libraries as necessary to effect the purposes of this act.

A rural single county system may be joined with another county or counties to form a multicounty library system upon action of the board of county commissioners. A multicounty system formed between a county having a rural single county system and other counties may be formed only upon compliance with the procedures for establishment of a multicounty library system set forth in the Oklahoma Statutes.

A rural single county library system created under the provisions of this act may be terminated only by majority vote of qualified electors voting in an election called by petitions signed by not less than twenty percent (20%) of the qualified electors voting in the last preceding general election in the county.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-203 of Title 65, unless there is created a duplication in numbering, reads as follows:

A. The board of trustees of a rural single county library system shall consist of at least five (5) members. One member shall be appointed from each county commissioner district by the board of county commissioners. One member shall be appointed by the governing body of the county seat city or town. A member shall be appointed from the city or town with the largest population that is not the county seat.

B. Initial appointments shall be for one-, two-, and three-year terms. Subsequent appointments shall be for three-year terms, except in the case of an appointment to fill an unexpired term which appointment shall be for the remainder of the unexpired term. No person shall serve more than two full consecutive terms in addition to any partial term served by appointment to fill an unexpired term. A person who previously served for two consecutive terms or less may be reappointed if two (2) years has expired since the last service on the board. All terms shall expire on June 30 of the designated year. A member of a system board can be removed by the appointing authority during the term for which appointed only for misconduct or neglect of duty.

C. Appointments to the system board shall be made on the basis of ability, a sound understanding of the total responsibilities and objectives of public libraries and active interest in the attainment of system goals. Appointive members shall be qualified electors and bona fide residents of the county. No member of the system board shall be in the business of publishing or selling books, periodicals or other forms of library materials or the business of manufacturing or selling library supplies or equipment.

D. All system board members shall serve without compensation except for actual and necessary travel expenses which shall be compensated from library funds upon proper authorization of the board of trustees of the system at the rate provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. Individual memberships for system board members in state, regional, and national library associations and expenses incurred in attending conferences of these associations, board meetings and other library and library-related meetings may be paid from library funds upon proper authorization of the board of trustees of the system.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-204 of Title 65, unless there is created a duplication in numbering, reads as follows:

The system board shall elect a chair, vice-chair, and treasurer for one-year terms from the appointed members. The system board shall meet as often as necessary. The system board shall be subject to the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes. The board shall adopt rules for the transaction of business and keep a record of its functions and activities which shall be a public record. A majority of the board membership shall constitute a quorum.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-205 of Title 65, unless there is created a duplication in numbering, reads as follows:

A. Every rural single county library system board shall have all powers necessary or convenient to accomplish its purpose including the following:

1. To operate and maintain a library system and to adopt rules and regulations;

2. To purchase, lease, or otherwise acquire land or buildings for library services;

3. To erect, maintain, and operate public library buildings at one or more places;

4. To accept transfer of any existing public library or libraries by lease or other conveyance;

5. To acquire by purchase or otherwise books and other personal property customarily used in the operation of public libraries including necessary motor vehicles;

6. To sell and dispose of personal property acquired by purchase or any other means when by proper resolution the board finds that said property is not needed for library purposes;

7. To acquire, accept, hold, and convey legal title to interest in real property in the name of the system board; deeds or other conveyances of said interests in real property shall be executed for and on behalf of the system board by the chair and shall be attested by the secretary upon proper resolution of the board;

8. To accept or decline donations tendered to the library system;

9. To administer the expenditures of any funds which may become available for library purposes;

10. To establish a schedule of fees to cover various services rendered;

11. To contract for professional services, including legal counsel and independent certified public or certified municipal accounting services, within the limits of the board's appropriations; provided this paragraph shall not be construed to preclude the use of the appropriate district attorney for legal counsel and the State Auditor and Inspector for auditing services;

12. To apply, contract for, and receive any allocations of funds which may be available to the system board for library and library- related purposes and services under the laws and regulations of the United States, the State of Oklahoma, or any other state, organization, agency, instrumentality or subdivision of these entities, and to undertake or contract for joint activities or programs with the United States, the State of Oklahoma or any other state, organization, agency, instrumentality, or subdivision of these entities pertaining to library or library-related purposes or services; and to prepare and submit plans, specifications, reports or applications, to execute any agreements, to employ, fix duties and compensation of personnel and to administer and direct any programs, plans or projects in connection with any of the activities described in this paragraph;

13. To enter into agreements with school districts in any area served by the library system upon such terms as may be mutually agreed. The agreement shall prescribe equitable charges for the cost to serve schools which include on-site costs of library collection and library automation and the cost of providing assigned staffing which meets the certification requirements for school library media programs;

14. To borrow money on the credit of the system board of trustees for a term not to exceed one (1) year;

15. To do all other things necessary or desirable to carry out the purposes and provisions of this act; and

16. When available, have access to a statewide library telecommunications network.

B. The system board shall prepare an annual budget which shall be filed on or before June 1 with the board of county commissioners, the county excise board, the State Auditor and Inspector, the Oklahoma Department of Libraries, the State Board of Equalization, and cities and towns that participate in financial support of the system. The system board shall submit an annual audit of its income and expenditures within ninety (90) days following the close of the fiscal year to the board of county commissioners, the county excise board, the State Auditor and Inspector, the Oklahoma Department of Libraries, the State Board of Equalization, and cities and towns that participate in financial support of the system.

C. If a rural single county library system is abolished, the assets shall be disposed of by the board of county commissioners with the approval of the Oklahoma Department of Libraries Board.

D. Funds levied and collected pursuant to Section 10A of Article X of the Oklahoma Constitution for the purpose of creating and maintaining a rural single county library system shall be controlled and administered by the system board.

E. Funds from federal, state, county and city governments and from other sources shall be deposited in a separate library account following procedures as may be agreed upon by the contributing agency, the system board, and the Oklahoma Department of Libraries Board.

F. Vouchers may be drawn by officers or employees as prescribed by the system board. Each officer or employee allowed to draw vouchers shall give a faithful performance bond approved by the system board in an amount determined by the board equal to the estimated largest single disbursement to be made by the officer or employee. Premiums for such bond may be paid from funds of the library system.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-206 of Title 65, unless there is created a duplication in numbering, reads as follows:

A. The rural single county library system board shall appoint a librarian of the library system on the basis of merit and experience. In counties with a population of twenty thousand (20,000) or more, the librarian shall be a graduate of a library school accredited by the American Library Association. In counties with a population of less than twenty thousand (20,000), during the first two (2) years after formation of a system the board may appoint a librarian who is not a graduate of a library school accredited by the American Library Association; provided, within five (5) years of formation of the system the librarian must graduate from a library school accredited by the American Library Association in order to continue as librarian. Subsequent librarians appointed in counties with a population of less than twenty thousand (20,000) must be graduates at the time of appointment of a library school accredited by the American Library Association.

B. The librarian shall be the administrative, executive and supervisory officer of the library and secretary to the system board. The librarian shall serve at the discretion of the system board.

C. The librarian may appoint and remove staff members and other employees.

D. The librarian and other employees of the system board may participate in employee retirement and health insurance programs offered by the county for county employees or the state for state employees. The costs of employee participation in the county or state programs shall be paid by the system board from library funds.

SECTION 10. 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 Senate the 26th day of April, 1995.

President of the Senate

Passed the House of Representatives the 11th day of April, 1995.

Speaker of the House of Representatives