

SHORT TITLE: Public competitive bidding; modifying certain definitions; deleting certain expense reporting requirements of boards of education; modifying duties of Department of Central Services; providing exception to certain affidavit requirement; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1077

By: Long (Ed)

AS INTRODUCED

An Act relating to public buildings and public works, state government and schools; amending 61 O.S. 1991, Section 102, as amended by Section 5, Chapter 7, O.S.L. 1994 (61 O.S. Supp. 1995, Section 102), which relates to public competitive bidding; modifying definitions; amending 70 O.S. 1991, Section 5-117, as last amended by Section 3, Chapter 165, O.S.L. 1995 (70 O.S. Supp. 1995, Section 5-117), which relates to powers and duties of boards of education; deleting requirement that certain expenses be itemized; amending 74 O.S. 1991, Sections 110.1, as last amended by Section 7, Chapter 283, O.S.L. 1994, and 3109, as amended by Section 3, Chapter 205, O.S.L. 1995 (74 O.S. Supp. 1995, Sections 110.1 and 3109), which relate to inventory by the Department of Central Services and requirement for certain affidavits; increasing monetary limit for maintaining certain inventory; providing exception to certain affidavit requirement; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 61 O.S. 1991, Section 102, as amended by Section 5, Chapter 7, O.S.L. 1994 (61 O.S. Supp. 1995, Section 102), is amended to read as follows:

Section 102. When used in this act, unless the context clearly indicates otherwise, the following words and terms shall be construed as having the meanings ascribed to them in this section:

1. "Awarding public agency" means the public agency which solicits and receives sealed bids on a particular public construction contract;

2. "Bidding documents" means the bid notice, plans and specifications, bidding form, bidding instructions, special

provisions and all other written instruments prepared by or on behalf of an awarding public agency for use by prospective bidders on a public construction contract;

3. "Public agency" means the State of Oklahoma, and any county, city, town, school district or other political subdivision of the state, any public trust, any public entity specifically created by the statutes of the State of Oklahoma or as a result of statutory authorization therefor, and any department, agency, board, bureau, commission, committee or authority of any of the foregoing public entities;

4. "Public construction contract" or "contract" means any contract, exceeding ~~Seven Thousand Five Hundred Dollars (\$7,500.00)~~ Fifteen Thousand Dollars (\$15,000.00) in amount, awarded by any public agency for the purpose of making any public improvements or constructing any public building or making repairs to the same except where the improvements, construction of any building or repairs to the same are improvements or buildings leased to a person or other legal entity exclusively for private and not for public use and no public tax revenues shall be expended on or for said contract unless the public tax revenues used for the project are authorized by a majority of the voters of the applicable public agency voting at an election held for that purpose and the public tax revenues do not exceed twenty-five percent (25%) of the total project cost. The amount of public tax dollars committed to the project will not exceed a fixed amount established by resolution of the governing body prior to or concurrent with approval of the project;

5. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or to adapt it to

new or further purposes. The term does not include the direct purchase of materials, equipment or supplies by a public agency; and

6. "Retainage" means the difference between the amount earned by the contractor on a public construction contract, with the work being accepted by the public agency, and the amount paid on said contract by the public agency.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 5-117, as last amended by Section 3, Chapter 165, O.S.L. 1995 (70 O.S. Supp. 1995, 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, a city-county library commission, as defined in Section 152 of Title 65 of the Oklahoma Statutes, or a rural single county library system, as defined in Section ~~4~~ 1-104 of ~~this act~~ Title 65 of the Oklahoma Statutes, 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 3. AMENDATORY 74 O.S. 1991, Section 110.1, as last amended by Section 7, Chapter 283, O.S.L. 1994 (74 O.S. Supp. 1995, Section 110.1), is amended to read as follows:

Section 110.1 A. ~~The Office of Public Affairs~~ Department of Central Services shall maintain a current inventory of all equipment owned by state departments, boards, commissions, institutions, or agencies of the state except equipment used in medical education and research costing less than ~~One Hundred Dollars (\$100.00)~~ Five Hundred Dollars (\$500.00).

B. Except for the institutions comprising The Oklahoma State System of Higher Education, and the University Hospitals, the ~~Office of Public Affairs~~ Department of Central Services inventory shall consist of machinery, implements, tools, furniture, livestock, vehicles, and other apparatus that may be used repeatedly without material impairment of its physical condition and which has a

invoice or claim is true and correct. Affiant further states that the (work, services or materials) as shown by this invoice or claim have been (completed or supplied) in accordance with the plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly to any elected official, officer or employee of the State of Oklahoma, any county or local subdivision of the state, of money or any other thing of value to obtain payment of the invoice or procure the contract or purchase order pursuant to which an invoice is required.

(Contractor, supplier or engineer)

Subscribed and sworn to before me this ____ day of _____, 19__.

Notary Public (or Clerk or Judge)

Architect

Subscribed and sworn to before me this ____ day of _____, 19__.

Notary Public (or Clerk or Judge)

A notarized statement of noncollusion shall not be required on purchase orders to procure materials and equipment, provided this provision shall not exempt the requirement for a notarized statement of noncollusion on invoices for services or materials and equipment.

B. Any municipality or school district executing a contract with any architect, contractor, supplier or engineer for work, services or materials which are needed on a continual basis from such architect, contractor, supplier or engineer under the terms of such contract, may require that the architect, contractor, supplier or engineer complete a signed and notarized affidavit in substantial

form as provided by subsection A of this section which shall apply to all work, services or materials completed or supplied under the terms of the contract and shall be in lieu of all individual affidavits for each invoice submitted in relation to such contract as required in subsection A of this section.

C. The sworn statement required in subsection A of this section shall be on every invoice submitted to a school district in the state, for payment to an architect, contractor, engineer or supplier of material of Two Thousand Dollars (\$2,000.00) or more, except as provided for in subsection B of this section.

SECTION 5. This act shall become effective July 1, 1996.

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.

45-2-1788

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