

By: Weedn of the Senate
and
Boyd of the House

An Act relating to public contracts; amending 62 O.S. 1991, Section 430.1, which relates to acquisition of property by political subdivisions; modifying type of property which may be rented by political subdivision; defining term; specifying status of certain property; modifying type of agreements to which certain provisions apply; allowing and requiring certain agreements to include certain provisions; providing procedures for payment and term for lease or rental of certain property; amending 61 O.S. 1991, Section 102, as last amended by Section 2, Chapter 365, O.S.L. 1998 (61 O.S. Supp. 1998, Section 102), which relates to the Public Competitive Bidding Act of 1974; making exclusion to certain definition; amending 70 O.S. 1991, Section 5-117, as last amended by Section 8, Chapter 365, O.S.L. 1998 and Section 1, Chapter 354, O.S.L. 1994, as amended by Section 9, Chapter 305, O.S.L. 1995 (70 O.S. Supp. 1998, Sections 5-117 and 5-134.1), which relate to powers and duties of boards of education and budget adoption procedures of school districts; modifying type of property which boards are authorized to rent; specifying terms of lease agreements; requiring school boards to conduct public hearing for specified purpose; deleting redundant language; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 62 O.S. 1991, Section 430.1, is amended to read as follows:

Section 430.1 A. The governing board of any county, city or town, or school district is authorized to rent on a monthly basis real or personal property ~~or equipment~~ as authorized by the governing board and to pay the rental charges thereon for usage during any fiscal period, or portion thereof, out of appropriations made and approved for such purposes for, or during, such fiscal year. Any such rental contract extending beyond June 30 of the

fiscal year shall contain provisions for mutual ratification of renewal under the conditions provided in this section.

B. As used in this section, the term "personal property" shall include, but not be limited to:

1. Portable, or otherwise moveable, buildings and structures;

2. Prefabricated metal buildings and structures, along with necessary utility services for such buildings or structures;

3. Detachable sloping roofs which can be installed over existing roof structures and removed without permanent damage to the building; and

4. Other structures that can be disassembled after installation and removed without permanent damage to existing property.

Such personal property shall retain its status as personal property and shall not be deemed to become attached to the real estate for the duration of the lease-purchase agreement.

C. It is the purpose of this ~~act~~ section to authorize such governing boards to enter into lease and lease-purchase contracts but not to incur any obligation upon the part of their respective municipal or governmental subdivisions in excess of the income and revenue thereof provided for such purposes for the fiscal year in which the lease contract is effectively operative.

~~C. D.~~ D. Any agreement to lease and purchase real or personal property ~~or equipment~~, where title is to be acquired by the municipal or governmental subdivision, shall state the purchase price of the real or personal property ~~or equipment~~ so leased and in no event shall the lease be extended so as to cause payment of more than the stated purchase price of the real or personal property ~~or equipment~~ plus interest not to exceed ten percent (10%) simple interest on the unpaid balance due as of each payment date. When the purchase price plus interest has been paid, the property shall belong to the lessee and the lessor shall deliver a bill of sale to the property to the lessee. Any lease-purchase agreement may

include an option to purchase, transfer and acquire title during the term of the lease upon payment of the balance of the agreed purchase price, and each agreement shall include a provision to transfer title to the lessee at the end of the completed lease term for nominal or no additional consideration.

~~D.~~ E. The payment for the lease or rental of real or personal property, ~~machinery and equipment~~ shall be made only from annual and supplemental appropriations specifically designated for such purpose, and no appropriation for the purpose of paying rentals on real or personal property, ~~machinery and equipment~~ shall be transferred or diverted to any other purpose, except as may be authorized by the terms of the agreement or by law.

~~E.~~ F. When any real or personal property, ~~machinery or equipment~~ has been leased or rented during any fiscal year under any contract which permits continuance of such rental for the remainder of the fiscal year, the renting or leasing thereof shall be continued for the remainder of the fiscal year unless the governing body renting or leasing the same, by proper resolution entered in the minutes of the governing body, shall certify that the continuance of such rental is unnecessary and contrary to the public interest.

SECTION 2. AMENDATORY 61 O.S. 1991, Section 102, as last amended by Section 2, Chapter 365, O.S.L. 1998 (61 O.S. Supp. 1998, Section 102), is amended to read as follows:

Section 102. When used in ~~this act~~ the Public Competitive Bidding Act of 1974, 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 Twelve Thousand Five Hundred Dollars (\$12,500.00) 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~~ the 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 or any personal property as defined in subsection B of Section 430.1 of Title 62 of the Oklahoma Statutes; 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 3. AMENDATORY 70 O.S. 1991, Section 5-117, as last amended by Section 8, Chapter 365, O.S.L. 1998 (70 O.S. Supp. 1998, 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. The board of education shall establish a written policy for reimbursement of necessary travel expenses of employees and members of the board. The written policy shall specify procedures containing documentation requirements equal to or greater than the requirements specified by law for state employees in the State Travel Reimbursement Act;

15. Pay necessary travel expenses and other related expenses of prospective employees for sponsored visits to the school district pursuant to a written policy specifying procedures containing documentation requirements equal to or greater than the requirements specified by law for state employees in the State Travel Reimbursement Act;

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;

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 1-104 of 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; and

20. Perform all functions necessary to the administration of a school district in Oklahoma as specified in the Oklahoma School Code, and in addition thereto, those powers necessarily implied but not delegated by law to any other agency or official.

B. The board of education of any school district may rent, on a monthly basis, real or personal property ~~equipment and furniture~~, if such items are necessary for the operation of the school, and pay the rental charges for ~~said~~ the usage during any fiscal year, or portion thereof, out of appropriations made and approved for current expense purposes during ~~said~~ the 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~~ real or personal property 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~~ the real or personal property, plus interest not to exceed the legal rate. When ~~said~~ the 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~~ the property to the lessee. When any ~~equipment or furniture~~ real or personal property 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~~ the fiscal year unless the board of education renting or leasing the same certifies by proper resolution entered in the minutes of ~~said~~ the 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. AMENDATORY Section 1, Chapter 354, O.S.L. 1994, as amended by Section 9, Chapter 305, O.S.L. 1995 (70 O.S. Supp. 1998, Section 5-134.1), is amended to read as follows:

Section 5-134.1 A. No later than July 31 each district board of education shall prepare a statement of actual income and expenditures of the district for the fiscal year that ended on the preceding June 30. The board shall post a copy of the income and expenditures statement in the administrative office of the board in an area accessible to the public and in at least one public library within the district within five (5) days after the statement is prepared. The statement of expenditures shall include functional categories as defined in rules promulgated by the State Board of Education to implement the Oklahoma Cost Accounting System pursuant to Section 5-135 of Title 70 of the Oklahoma Statutes. Provided,

the statement of expenditures shall specifically include a detailed account of expenditures of the funds generated by and allocated to the school district through the economically disadvantaged weight in the State Aid Formula pursuant to the Oklahoma Cost Accounting System, for all school districts with an average daily membership (ADM) greater than ten thousand (10,000).

B. No later than September 1 the State Department of Education shall provide each school district an estimate of the district's allocation of State Aid for the current fiscal year.

C. No later than fifteen (15) days prior to adoption of a final budget for the district as provided in subsection D of this section, the board shall ~~schedule~~ conduct a public hearing for the purpose of taking public comment on financial matters, including past and future expenditures, of the district. ~~The hearing may be held at a regularly scheduled board meeting or at a special board meeting called for that purpose. Notice of the hearing shall be given in the same manner as notice of board meetings is given.~~

D. No later than forty-five (45) days after the district's estimate of needs, filed pursuant to Section 3002 of Title 68 of the Oklahoma Statutes, is approved by the county excise board, the board shall adopt a final budget for the current fiscal year. The final budget shall include functional categories as defined in rules promulgated by the State Board of Education to implement the Oklahoma Cost Accounting System pursuant to Section 5-135 of Title 70 of the Oklahoma Statutes.

E. The final budget may be revised upon approval of the district board of education in open meeting.

SECTION 5. This act shall become effective July 1, 1999.

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 Senate the 9th day of March, 1999.

President of the Senate

Passed the House of Representatives the ____ day of _____ ,
1999.

Speaker of the House of
Representatives