STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 216

By: Laughlin of the Senate

and

Coleman, Vaughn, Boren, Claunch, Dank, Davis, Graves, Greenwood, Liotta, Maddux, Morgan (Fred) and Smith (Hopper) of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 2001, Sections 5-106 and 5-117, as last amended by Section 2 of Enrolled House Bill No. 1572 of the 1st Session of the 49th Oklahoma Legislature, which relate to governance of school districts and district boards of education; authorizing two or more district boards of education to contract with certain personnel to provide services to contracting districts; authorizing certain mutual and separate contracts between school districts and certain personnel; prohibiting certain construction of certain language; amending 70 O.S. 2001, Section 6-101, which relates to teachers' contracts; authorizing certain personnel to contract with more than one school district; conditioning certain contracts on assent of certain parties; requiring certain payments to Teachers' Retirement System of Oklahoma; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 5-106, is amended to read as follows:

Section 5-106. A. The governing board of each school district in Oklahoma is hereby designated and shall hereafter be known as the board of education of such district. Except as otherwise provided in this section, the superintendent of schools appointed and employed by the board shall be the executive officer of ~~said~~ the board and shall perform duties as ~~said~~ the board directs.

B. The board may contract with a superintendent for a term as mutually agreed upon but not to exceed three (3) years beyond the fiscal year in which the contract is approved by the board and accepted by the superintendent. The contract shall include all other terms and conditions as agreed upon in writing by the board and the superintendent.

C. The boards of two or more school districts may contract with one superintendent to serve as superintendent of the school districts as provided in Section 4 of this act.

D. No board of a school district having average daily membership (ADM) of fewer than five hundred (500) pupils shall be prohibited from allowing a superintendent to serve simultaneously as a principal.

E. The chief executive officer of the board of education of a district in which a public developmental research school is established shall be the director of the school appointed as provided in Section 1210.577 of this title.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 5-117, as last amended by Section 2 of Enrolled House Bill No. 1572 of the 1st Session of the 49th Oklahoma Legislature, 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; provided that the chair of the board authorized in Section 5-107B of this title shall be elected by the electors of the school district;

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 or a not-for-profit entity operating pursuant to Section 868 of Title 18 of the Oklahoma Statutes 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 policy

may include in-district travel from the site of employment assignment which is necessary in the performance of employment duties. The written policy shall specify procedures, contain documentation requirements, and may include payment of meal expenses during authorized travel on a per diem allowance basis rather than itemized documentation. Per diem meal reimbursement may not exceed the amounts authorized for state employees in Section 500.8 of Title 74 of the Oklahoma Statutes, but such reimbursement shall be available for necessary travel that does not require overnight stays. The board shall designate the funds from which reimbursement is to be made. Reimbursement of meal expenses for an employee or a board member shall not be considered compensation;

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;

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;

21. Prepare and distribute at the expense of the school district any and all material which has the purpose of informing the public about district activities; and

22. Solicit and accept any gift, grant, or donation of money or property for the use of the school district. Any gift, grant, or donation of money may be deposited in the general fund or building fund of the school district.

B. The board of education of any school district may rent, on a monthly basis, real and personal property, if such items are necessary for the operation of the school, and pay the rental charges for the usage during any fiscal year, or portion thereof, out of appropriations made and approved for current expense purposes during 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 or lease-purchase agreement entered into by

any board of education shall state the purchase price of real or personal property so leased. The lease or lease-purchase shall not be extended so as to cause payment of more than the original purchase price of the real or personal property, plus interest not to exceed the legal rate. When 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 the property to the lessee. When any 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 the fiscal year unless the board of education renting or leasing the same certifies by proper resolution entered in the minutes of 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. The boards of education of two or more school districts may enter into a mutual contract or separate contracts with a superintendent, administrator, or teacher or with a person to provide support services, to serve as superintendent, administrator, or teacher, as appropriately qualified, or to provide support services, for each contracting district upon such terms and conditions as the parties may agree. Nothing in this act shall be construed to authorize or require annexation or consolidation of any school districts or the closing of any school site except pursuant to law as set forth in Section 7-101 et seq. of this title.

E. 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.~~ F. 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 70 O.S. 2001, Section 6-101, is amended to read as follows:

Section 6-101. A. Except as provided in subsection E of this section, no person shall be permitted to teach in any school district of the state without a written contract, except as provided herein for substitute teachers and except teachers of classes in adult education. The board of education of each school district, wherein school is expected to be conducted for the ensuing year,

shall employ and contract in writing with qualified teachers for and in the name of the district. One copy of the contract shall be filed with the clerk of the board of education and one copy shall be retained by the teacher.

B. Except as otherwise provided by law, no board of education shall have authority to enter into any written contract with a teacher who does not hold a valid certificate issued or recognized by the State Board of Education authorizing said teacher to teach the grades or subject matter for which the teacher is employed. Any board of education paying or authorizing the payment of the salary of any teacher not holding a certificate, as required herein, shall be adjudged to be guilty of a fraudulent expenditure of public funds and members voting for such payment shall be held jointly responsible for the return of the amount of any public monies thus expended, upon suit brought by the district attorney or by any interested citizen in the district where such funds have been expended.

C. It shall be the duty of the superintendent of schools under whose supervision teachers have been contracted to teach to certify to the treasurer of the contracting district the names of the teachers holding valid certificates with whom contracts have been made and the names of substitute teachers employed in accordance with law. ~~Said~~ The treasurer shall not register any warrant issued in payment of salary to any teacher whose name is not included in such list and shall be liable on the official bond for the treasurer for the amount of any warrant registered in violation of the provisions of this section.

D. Whenever any person shall enter into a contract with any school district in Oklahoma to teach in such school district the contract shall be binding on the teacher and on the board of education until the teacher legally has been discharged from the teaching position or released by the board of education from the

contract. ~~Until~~ Except as provided in this act, until such teacher has been thus discharged or released, the teacher shall not have authority to enter into a contract with any other board of education in Oklahoma for the same time covered by ~~his~~ the original contract. If upon written complaint by the board of education in a district any teacher is reported to have failed to obey the terms of the contract previously made and to have entered into a contract with another board of education without having been released from the former contract except as provided in this act, the teacher, upon being found guilty of ~~said~~ such charge at a hearing held before the State Board of Education, shall have such teacher's certificate suspended for the remainder of the term for which ~~said~~ the contract was made.

E. A board of education shall have authority to enter into written contracts with teachers for the ensuing fiscal year prior to the beginning of such year. If, prior to April 10, a board of education has not entered into a written contract with a regularly employed teacher or notified the teacher in writing by registered or certified mail that a recommendation has been made not to reemploy the teacher for the ensuing fiscal year, and if, by April 25, such teacher has not notified the board of education in writing by registered or certified mail that such teacher does not desire to be reemployed in such school district for the ensuing year, such teacher shall be considered as employed on a continuing contract basis and on the same salary schedule used for other teachers in the school district for the ensuing fiscal year, and such employment and continuing contract shall be binding on the teacher and on the school district.

F. Whenever a school district is engaged in contract negotiations with teachers employed by that school district after the school year has begun and the teachers are employed on a continuing contract basis, the school district shall, beginning at

the first of the school year, pay the teachers any state-mandated salary increases and salary schedule increases to which each teacher is otherwise entitled.

G. No school district or any member of the board of education of a district shall be liable for the payment of compensation to a teacher or administrator under the provisions of any contract for the ensuing year, if it becomes necessary to close the school because of insufficient attendance, disorganization, annexation, consolidation, or by dispensing with the school according to law, provided, such cause is known or action is taken prior to July 1 of such ensuing year.

H. No school district or any member of a board of education shall be liable for the payment of compensation to any teacher or administrator for the unexpired term of any contract if the school building to which the teacher or administrator has been assigned is destroyed by accident, storm, fire, or otherwise and it becomes necessary to close the school because of inability to secure a suitable building or buildings for continuation of school. Teachers and administrators shall be entitled to pay for any time lost when school is closed on account of epidemics or otherwise when an order for such closing has been issued by a health officer authorized by law to issue the order.

<u>I. A teacher may contract with more than one school district for the same school year as provided in Section 4 of this act.</u>

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-106A of Title 70, unless there is created a duplication in numbering, reads as follows:

A superintendent, administrator, teacher, or person providing support services may contract with more than one school district to serve as superintendent, administrator, or teacher, as appropriately qualified, or to provide support services for each contracting district. The contract may be mutual with all the districts as

parties, or the contracts may be separate; provided, that a superintendent, administrator, teacher, or person providing support services may not enter into contracts with more than one school district without the assent and knowledge of all the school districts with which they are contracting. The districts who contract either mutually or separately with a superintendent, administrator, or teacher, or with a person to provide support services may enter into agreements upon such terms and conditions as the parties may agree and may include terms related to the division of payments for items including, but not limited to, payment of benefits or travel for the superintendent, administrator, teacher, or person providing support services. Unless otherwise provided by contract, each district shall pay into the Teachers' Retirement System of Oklahoma the district's pro rata share of the payment required to be paid into the System on behalf of the employee.

SECTION 5. This act shall become effective July 1, 2003.

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.

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