

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1289

By: Easley

AS INTRODUCED

An Act relating to schools; amending 25 O.S. 2001, Section 307, which relates to the Oklahoma Open Meeting Act; allowing a board of education hold an executive session to hear certain evidence and testimony; amending 70 O.S. 2001, Sections 5-106 and 5-117, as amended by Section 2, Chapter 483, O.S.L. 2002 (70 O.S. Supp. 2002, Section 5-117), which relates to the governing body of a school district and powers of a board of education; authorizing two or more boards of education to contract with a superintendent; conditioning certain contracts on assent of parties; providing for payment of certain costs; providing for payment to Teachers' Retirement System of Oklahoma; authorizing certain mutual and separate contracts between school districts and superintendents; specifying that annexation or consolidation not be required with certain exceptions; prohibiting closure of certain school sites and providing an exception; specifying certain credit for use in State Aid calculation; requiring application of certain accounting system; establishing the Accomplished Teaching Project; making project a pilot program; stating purpose of the project; directing the State Board of Education to establish criteria; directing the Board to promulgate rules; requiring certain standards in certain areas; allowing participating teachers to choose area; specifying professional areas and standards; repealing 70 O.S. 2001, Section 5-117, as amended by Section 1, Chapter 283, O.S.L. 2002 (70 O.S. Supp. 2002, Section 5-117), which relates to powers and duties of boards of education; 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 25 O.S. 2001, Section 307, is amended to read as follows:

Section 307. A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;
2. Discussing negotiations concerning employees and representatives of employee groups;
3. Discussing the purchase or appraisal of real property;
4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;
5. Permitting school district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or his parent, attorney or legal guardian;
6. Discussing matters involving a specific handicapped child;
7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law; ~~or~~
8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act; or
9. Permitting school district boards of education to hear evidence and testimony given by a student during a due process hearing of a school employee when the evidence and testimony relates to abuse or inappropriate behavior by the employee towards students.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;

2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;
3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;
4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;
5. The Oklahoma Savings and Loan Board, as provided for under subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;
6. The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would interfere with the development of patents, copyrights, products, or services;
7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma Statutes;
8. The Child Death Review Board for purposes of receiving and conferring on matters pertaining to materials declared confidential by law;
9. The Domestic Violence Fatality Review Board as provided in Section ~~± 1601~~ of ~~this act~~ Title 22 of the Oklahoma Statutes;
10. All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups supported in whole or part by public funds or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business; and

11. The Oklahoma Indigent Defense System Board for purposes of discussing negotiating strategies in connection with making possible counteroffers to offers to contract to provide legal representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation pursuant to the provisions of the Indigent Defense System Act, Section 1355 et seq. of Title 22 of the Oklahoma Statutes.

D. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;

2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and

3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Savings and Loan Board, and which are required by state or federal law to be confidential, any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and

2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public.

SECTION 2. 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 education of two or more school districts may contract with one superintendent to serve as superintendent of the school districts as provided for in Section 3 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 3. 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 person may contract with more than one school district to serve as superintendent for each contracting district. The contract may be mutual with all the districts as parties, or there may be separate contracts for each school district. A superintendent 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 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. 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 4. AMENDATORY 70 O.S. 2001, Section 5-117, as amended by Section 2, Chapter 483, O.S.L. 2002 (70 O.S. Supp. 2002, 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; 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; and

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.

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 a separate contract with a person to serve as superintendent for each contracting district upon 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 except pursuant to law as set forth in Section 7-101 et seq. of this title. No school site shall be closed due to a district utilizing the provisions of this act.

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 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18-201.1a of Title 70, unless there is created a duplication in numbering, reads as follows:

A. For purposes of the weighted teacher experience and degree calculation as provided in Section 18-201.1 of Title 70 of the Oklahoma Statutes, each superintendent who is employed by more than one school district pursuant to a mutual or a separate contract as provided in Section 3 of this act shall be counted as a full-time employee for each district with which the superintendent contracts to provide at least the equivalent of half-time service. For a district with which the superintendent contracts to provide less than the equivalent of half-time service, the service shall be prorated for purposes of the weighted teacher experience and degree calculation.

B. A district for which the weighted teacher experience and degree calculation is calculated pursuant to subsection A of this section shall ensure that any State Aid funds the district receives over and above what the district would have received if the shared employee's service had been prorated rather than credited as full

time shall be applied toward instructional costs. The funds and the uses of the funds shall be reported through use of the Oklahoma Cost Accounting System pursuant to Section 5-135 of Title 70 of the Oklahoma Statutes in a manner that allows tracking of the funds and expenditures.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-206 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. In order to assure all children a high quality education, the State Board of Education shall establish the Accomplished Teaching Project as a pilot program. The purpose of the program shall be to secure and retain quality teachers in the classroom through the use of high standards of professional excellence and alternative compensation. Local school districts may participate contingent on the availability of funds from local, state, federal or private resources.

B. The State Board of Education shall determine criteria for the pilot program and establish a process for selecting local school districts to participate. The selection process shall be conducted on a statewide competitive basis. The State Board of Education is authorized to promulgate rules for the implementation of programs in the Accomplished Teaching Project.

C. The Accomplished Teaching Project shall consist of state standards set for teaching responsibilities in six professional areas, as specified in subsection D of this section. Each teacher participating in the pilot program may select the professional area and standard on which the teacher wishes to focus, and shall be given the opportunity to demonstrate evidence of expertise in that area.

D. The Oklahoma Accomplished Teaching Project Professional Areas and Standards shall be:

1. Professional Area One: Instructional Design and Delivery

The teacher shall design and engage students in standards-based instructional activities that promote conceptual understanding and challenges student thinking. The standards for Instructional Design and Delivery shall be:

- a. Accomplished - Designs challenging instructional strategies which build on students' knowledge and experience to further their understanding of the content. Monitors and adjusts instruction to meet the needs of the individual students,
- b. Proficient - Designs instructional strategies which build on students' knowledge and experience to further their understanding of the content, and
- c. Basic - Uses instructional strategies directed toward meeting content objectives;

2. Professional Area Two: Learning Environment

The teacher shall establish a classroom culture where high expectations for learning and achievement are communicated to students and where students assume responsibility for their own actions. The standards for Learning Environment shall be:

- a. Accomplished - Creates a classroom of high expectations where students and teacher collaborate to maintain a safe and orderly environment in which all students can participate in self-directed learning,
- b. Proficient - Creates a classroom where students and teachers collaborate to maintain a safe, orderly environment in which all students are expected to participate and learn, and
- c. Basic - Maintains a safe and orderly environment in which learning is teacher-directed;

3. Professional Area Three: Assessment of Student Learning

The teacher shall understand multiple assessment strategies and uses them for continual development of the learner. The standards for Assessment of Student Learning shall be:

- a. Accomplished - Utilizes a range of ongoing assessment techniques; knows when each is appropriate; implements them as needed; encourages students to monitor their own learning; and communicates results to the appropriate audience,
- b. Proficient - Utilizes a range of ongoing assessment techniques; knows when each is appropriate; implements them as needed; and communicates results to the appropriate audience, and
- c. Basic - Utilizes assessment techniques and communicates results;

4. Professional Area Four: Family/Community Involvement

The teacher shall foster relationships with families and agencies in the larger community to support students' learning and well-being. The standards for Family/Community Involvement shall be:

- a. Accomplished - Collaborates with family using multiple strategies to promote ongoing, interactive communication. Utilizes community resources to provide a stimulating learning environment,
- b. Proficient - Collaborates with families using multiple strategies to promote ongoing communication, and
- c. Basic - Communicates with families;

5. Professional Area Five: Professional Leadership

The teacher shall contribute to the quality of the teaching practices of peers and the overall instruction of the school. The standards for Professional Leadership shall be:

- a. Accomplished - Initiates and leads others to improve the quality of student learning,

b. Proficient - Participates and supports, voluntarily, to make substantial contribution to student learning, and

c. Basic - Participates in required educational initiatives to improve student learning; and

6. Professional Area Six: Professional Development

The teacher shall understand the importance of continual learning and shall pursue opportunities to improve teaching practices and student learning. The standards for Professional Development shall be:

a. Accomplished - Consistently reflects on individual practice and then seeks out and participates in varied professional development activities and applies what is learned to improve student learning,

b. Proficient - Seeks out and participates in varied professional development activities and applies what is learned to improve student learning, and

c. Basic - Attends required professional development activities.

SECTION 7. REPEALER 70 O.S. 2001, Section 5-117, as amended by Section 1, Chapter 283, O.S.L. 2002 (70 O.S. Supp. 2002, Section 5-117), is hereby repealed.

SECTION 8. This act shall become effective July 1, 2003.

SECTION 9. 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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