STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 668

By: Monson of the Senate

and

Staggs of the House

COMMITTEE SUBSTITUTE

[ revenue and taxation, schools and public finance - county excise boards - notification - used transportation equipment - school auditors - financial transactions - insurance - contracts - effective date -

emergency ]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2902.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

Upon filing of a formal protest which would, if approved, reduce the assessed valuation of any property by more than One Hundred Thousand Dollars ($100,000.00), other than a homestead exemption, the county equalization board shall give timely notice of the application by mailing a copy of it to any municipality, school district and community college district in which the property is situated. Failure of a municipality, school district or community college district to receive the notice shall not invalidate any protest. The board shall notify the municipalities, school districts and community college districts and the taxpayer of the formal protest hearing and their opportunity to be heard.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-190 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Before July 1, 2007, every school district treasurer shall complete at least twelve (12) hours of instruction on school finance laws of this state, accounting, ethics, and the duties and responsibilities of a school district treasurer.

B. Before July 1, 2007, every school district encumbrance clerk shall complete at least twelve (12) hours of instruction on school finance laws of this state, accounting, ethics, and the duties and responsibilities of a school district encumbrance clerk.

C. Every school district treasurer and encumbrance clerk employed after July 1, 2007, shall be required, within nine (9) months after employment in the position by a school district, to complete the instruction required pursuant to subsections A and B of this section.

D. Every school district treasurer and encumbrance clerk shall be required to complete a minimum of twelve (12) hours of continuing education every three years, in addition to the requirements of subsections A and B of this section.

SECTION 3. AMENDATORY 62 O.S. 2001, Section 310.9, as amended by Section 2, Chapter 414, O.S.L. 2002 (62 O.S. Supp. 2004, Section 310.9), is amended to read as follows:

Section 310.9 A. Except as provided in subsection B of this section, on every contract entered into by any county, school district, technology center school district or political subdivision of the state for an architect, contractor, engineer or supplier of construction materials of Twenty-five Thousand Dollars ($25,000.00) or more, ~~the sworn statement required by Section 3109 of Title 74 of the Oklahoma Statutes shall be required~~ shall be the following signed statement:

STATE OF OKLAHOMA)

_____ ) ss.

COUNTY OF)

The undersigned (architect, contractor, supplier or engineer), of lawful age, being first duly sworn, on oath says that this contract is true and correct. Affiant further states that the (work, services or materials) will be (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 or procure the contract or purchase order.

_____

(Contractor, architect, supplier or engineer)

Attested to before me this day of , 20 .

B. Any county, municipality or school district executing a contract with any architect, contractor, supplier or engineer for construction work, services or materials which are needed on a continual basis from such architect, contractor, supplier or engineer under the terms of such contract, or executing more than one contract during the fiscal year with such architect, contractor, supplier or engineer, may require that the architect, contractor, supplier or engineer complete a signed affidavit as provided for in subsection A of this section which shall apply to all work, services or materials completed or supplied under the terms of the contract or contracts.

SECTION 4. AMENDATORY 70 O.S. 2001, Section 5-110, is amended to read as follows:

Section 5-110. A. Except as provided in subsection B of this section, at the time a school district elector files a notification and declaration of candidacy for the office of district board of

education membership, such elector shall agree and pledge in writing that, within fifteen (15) months of election or appointment as a member of the district board of education, such member will complete at least twelve (12) hours of instruction on education issues, including school finance, Oklahoma education laws, and ethics, duties and responsibilities of district board of education members. This requirement may be satisfied by attending a two-day workshop to be held within the state by the State Department of Education or by attending workshops, seminars or classes which address the above-mentioned subject matter, and which are sponsored by any organization approved by the State Board of Education, including but not limited to institutions of higher education. The State Board of Education shall promulgate rules by which an organization or particular courses offered by an organization may be approved for purposes of fulfilling the instructional requirements set out in this section.

B. When an incumbent of a district board of education files a notification and declaration of candidacy for reelection to the district board of education, the member shall not be required to comply with the provisions of subsection A of this section but shall be required to agree and pledge in writing that upon reelection the member will complete six (6) hours of instruction within fifteen (15) months following his or her election emphasizing changes in school law, particularly changes in the areas set forth in subsection A of this section.

C. The State Department of Education shall, immediately after the annual elections of various district board of education members, determine the members of the district boards of education pledged to attend the workshop established by subsections A and B of this section, and shall notify such members of the time and place such workshop is to be conducted. Upon completion of the workshop, the certificate of completion shall be included in the public records of

the school board's minutes. Each school board member, except for an incumbent member, shall be required within fifteen (15) months following or preceding his or her election to complete the workshop established by subsection A of this section or to attend twelve (12) hours of other state workshops conducted as instruction on the subjects of school finance, the Oklahoma School Code and related laws, and the ethics, duties and responsibilities of district board of education members. If a member has not satisfied the above instructional requirements within fifteen (15) months of his or her election, the local board of education shall declare the seat of such member vacant and fill the vacancy according to law. All government departments, agencies and institutions of this state are directed to lend such assistance as may be required by the State Department of Education for the proper conduct and administration of the workshops. The State Department of Education shall maintain a permanent record of each district board of education member who successfully completes a workshop and shall issue a certificate of completion to such member.

D. The State Department of Education and, upon approval of the State Board of Education, any organization or association representing district boards of education in this state are authorized to charge persons pledged to attend the workshop a registration fee sufficient to defray the estimated costs of presenting the workshop or Thirty-five Dollars ($35.00) per registrant, whichever is the lesser amount, and to collect such fees at the time of registration.

E. Any member of a district board of education or any individual elected, certified as the elected member by the county election board, but not sworn in and seated as a member of a district board of education at the time of a workshop presented by the State Board of Education or an organization or association representing district boards of education within the state who

attends and successfully completes such workshop as required by subsection A or B of this section shall be reimbursed by the school district ~~for expenses incurred, not to exceed compensation in the sum of Twenty-five Dollars ($25.00) per day and actual expenses which are itemized and documented for lodging, meals, registration fees and transportation to and from the place of the workshop, as provided in the State Travel Reimbursement Act~~ in accordance with the district's travel reimbursement policy.

SECTION 5. AMENDATORY 70 O.S. 2001, Section 5-110.1, is amended to read as follows:

Section 5-110.1 A. In addition to the requirements of Section 5-110 of this title, every member of a school district board of education elected to a full term of office of five (5) years or more shall be required to attend a minimum of fifteen (15) hours of continuing education, each member elected to a full four-year term of office shall be required to attend a minimum of twelve (12) hours of continuing education, and each member elected to a full three-year term of office shall be required to attend a minimum of nine (9) hours of continuing education, prior to the date set for filing for reelection to that respective board seat. The continuing education courses, workshops, seminars, conferences, and conventions which shall satisfy the continuing education requirement shall be approved jointly by the State Department of Education and the Oklahoma Department of Career and Technology Education.

B. Local and state continuing education programs conducted pursuant to the provisions of this section shall be held in all regions of the state at institutions of higher learning, area technology centers or other approved sites. Notice of such courses and seminars shall be provided to all school board members and to the public schools.

C. This section shall not apply to those school board members who file for reelection prior to July 1, 1991.

D. Failure by a board member to satisfy the continuing education requirements of this section shall result in the ineligibility of the member to run for reelection to the school district board of education.

E. The State Department of Education and any organization approved by the State Board of Education, including but not limited to institutions of higher education, may charge persons attending continuing education courses a registration fee sufficient to defray the estimated costs of presenting the course. The registration fees for each course shall be announced prior to the date of such course.

F. Any member of a school district board of education who attends and completes a course which satisfies in part or in full the requirements of this section shall be reimbursed by the school district for expenses incurred. In addition, a school district board of education may reimburse members of the board of education for expenses incurred in registering and attending ~~board member training~~ programs or activities approved by the board which are in addition to the minimum school board training requirements established by law.

SECTION 6. AMENDATORY 70 O.S. 2001, Section 5-117, as last amended by Section 1, Chapter 71, O.S.L. 2004 (70 O.S. Supp. 2004, 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~~

a. Insure the school district or its employees against any loss, damage or liability as defined by Sections 702 through 708 of Title 36 of the Oklahoma Statutes, or other forms of insurance provided for in Title 36 of the Oklahoma Statutes.

b. Subject to the restrictions of liability in the Tort Claims Liability Act:

(1) insure the school district against all or any part of any liability it may incur for death, injury or disability of any person, or for damage to property, either real or personal,

(2) insure any employee of the school district against all or any part of the employee's liability for injury or damage resulting from an act or omission in the scope of employment, or

(3) insure against the expense of defending a claim against the school district or its employee, whether or not liability exists on such claim.

c. As used in this subsection, "employee" means any person who has acted in behalf of a school district, whether that person is acting on a permanent or temporary basis with or without being compensated or on a full-time or part-time basis. Employee also includes all elected or appointed officers, members of governing bodies of a school district, and persons appointed, and other persons designated by a school district to act in its behalf.

d. The cost or premium of any such insurance is a proper expenditure of the school district.

e. Any insurance authorized by law to be purchased, obtained or provided by a school district may be provided by:

(1) self-insurance, which may be, but is not required to be, funded by appropriations to establish or maintain reserves for self-insurance purposes. Any self-insurance reserve fund shall be nonfiscal and shall not be considered in computing any levy when the school district makes its annual estimate for needed appropriations,

(2) insurance in any insurer authorized to transact insurance in this state,

(3) insurance secured in accordance with any other method provided by law, or

(4) any combination of insurance authorized by this section.

f. Two or more school districts or public agencies, by interlocal agreement made pursuant to the Interlocal Cooperation Act, may provide insurance for any purpose by any one or more of the methods specified in this section. The pooling of self-insured reserves, claims or losses among governments as authorized in this section shall not be construed to be transacting insurance nor otherwise subject to the provisions of the laws of this state regulating insurance or insurance companies. Two or more school districts may also be insured under a master policy or contract of insurance. Premium costs may be set individually for each school district or apportioned among participating school districts as provided by the master policy or contract;

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~~;

15. 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.~~ 16. 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.~~ 17. Provide for employees' leaves of absence without pay;

~~17.~~ 18. Exercise sole control over all the schools and property of the district, subject to other provisions of the Oklahoma School Code;

~~18.~~ 19. 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.~~ 20. 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.~~ 21. 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.~~ 22. 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;

~~22.~~ 23. 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; and

~~23.~~ 24. Pay necessary meal and lodging expenses of school district students and sponsors involved in authorized school-sponsored cocurricular activities. The board of education shall establish a written policy for reimbursement of necessary meal and lodging expenses of school district students and sponsors. The written policy shall specify procedures, contain documentation requirements, and designate the funds from which reimbursement may be made. Reimbursement may be made from the General Fund.

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.

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 7. AMENDATORY 70 O.S. 2001, Section 5-118, is amended to read as follows:

Section 5-118. Regular meetings of the board of education of each school district shall be held upon the first Monday of each month, or upon such day as may be fixed by the board. Special meetings may be held from time to time as circumstances may demand.

All meetings of the boards of education shall be public meetings, and in all such meetings the vote of each member must be publicly cast and recorded. Executive sessions will be permitted only for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining, or resignations of any or all of the employees or volunteers of the school district, and for the purpose of discussing negotiations concerning employees and representatives of employee groups, and for the purpose of hearing evidence and discussing the expulsion or suspension of a student or students only when requested by the student involved or his parent, attorney, or legal guardian; provided, however, that any vote or action thereon must be taken in a public meeting with the vote of each member publicly cast and recorded. It is required that the board of education shall provide notice to the student, his or her parent, attorney or legal guardian that said student is entitled to an executive session regarding the discussion of expulsion or suspension of said student.

Any action taken in violation of the provisions of this act shall be invalid.

Each member of the board of education of a school district with an average daily attendance exceeding fifteen thousand (15,000) or a school district where boundaries encompass a total population exceeding one hundred thousand (100,000) persons according to the last preceding Federal Decennial Census may be paid from the

district's general fund a ~~per diem~~ stipend of Twenty-five Dollars ($25.00) for each regular, special or adjourned meeting of the board of education that he attends, but not for more than four meetings in any calendar month.

SECTION 8. AMENDATORY 70 O.S. 2001, Section 5-129, as last amended by Section 19, Chapter 361, O.S.L. 2004 (70 O.S. Supp. 2004, Section 5-129), is amended to read as follows:

Section 5-129. A. The board of education of each school district shall exercise control over all funds and revenues on hand or hereafter received or collected, as herein provided, from student or other extracurricular activities or other revenue-generating sources listed in subsection B of this section that are conducted in the school district. Such funds shall be deposited to the credit of the account maintained for the benefit of the particular activity within the school activity fund. Deposits of funds subject to the requirements of this section shall be made by the end of the next business day; however, if the deposit for a day totals less than One Hundred Dollars ($100.00), a school district may accumulate monies required to be deposited into the fund on a daily basis until the total accumulated balance of deposits equals or exceeds One Hundred Dollars ($100.00). Provided, a school district shall deposit accumulated monies into the fund not less than one (1) time per week, regardless of whether the monies total One Hundred Dollars ($100.00). Disbursements from each of the activity accounts shall be by check countersigned by the school activity fund custodian and shall not be used for any purpose other than that for which the account was originally created. The board of education, at the beginning of each fiscal year and as needed during each fiscal year, shall approve all school activity fund subaccounts, all subaccount fund-raising activities and all purposes for which the monies collected in each subaccount can be expended. Provided, the board of education may direct by written resolution that any balance in

excess of the amount needed to fulfill the function or purpose for which an account was established may be transferred to another account by the custodian.

B. The board of education of each school district may designate that any of the following revenue be deposited for the use of specific school activity accounts, or to a general activity fund within the school activity fund:

1. Admissions to athletic contests, school or class plays, carnivals, parties, dances and promenades;

2. Sale of student activity tickets;

3. Concession sales, including funds received from vending concession contracts and school picture contracts approved by the district board of education, and cafeteria or luncheon collections;

4. Dues, fees and donations to student clubs or other organizations, provided that membership in such clubs or organizations shall not be mandatory;

5. Income or revenue resulting from the operation of student organizations or club projects, provided, such revenue is not derived from the lease, rental or sale of property, supplies, products or other assets belonging to the school district. When approved by the board of education, student organizations or club projects may include fund-raising activities, the revenues from which may be used for the purpose of purchasing goods or services otherwise considered to be general fund expenditures;

6. Deposits for or collections for the purchase of class pictures, rings, pins, announcements, calling cards, annuals, banquets, student insurance and other such personal items; provided the cost of such items shall not be charged against other school funds; and

7. Other income collected for use by school personnel and other school related adult functions.

C. The board of education of ~~such~~ each district may establish petty cash accounts to be used only for the purpose of making small cash expenditures, such as postage, freight or express charges; provided, no single expenditure from a petty cash account shall be made in excess of Seventy-five Dollars ($75.00), and the total expenditures during any one (1) fiscal year shall not exceed Two Thousand Five Hundred Dollars ($2,500.00) per school building. The school activity fund custodian shall initiate petty cash accounts by filing a claim against the general fund of the school district for the authorized amount of each petty cash account which shall not exceed Two Hundred Dollars ($200.00) per school building. The general fund warrants issued in payment of said claim shall be deposited in a "Petty Cash Account" in the school activity fund.

All disbursements from the petty cash accounts shall be made in the same manner as other disbursements from the school activity fund, except no disbursement shall be made from a petty cash account unless a prenumbered, dated receipt be obtained and signed by the person receiving payment. A school board may designate a petty cash custodian to countersign petty cash checks in place of the activity fund custodian. The school activity fund custodian shall file claims against the general fund of the school district for reimbursement of a petty cash account whenever the need shall arise. Such claims shall be itemized in the same manner as other claims filed against the general fund and shall have attached thereto the receipts covering each of the expenditures claimed for reimbursement. The total of a petty cash account balance and the receipts on hand awaiting reimbursement should equal at all times the authorized amount of a petty cash account.

None of the provisions pertaining to a petty cash account shall be construed to authorize the use of one (1) fiscal year's fund to pay obligations of another fiscal year. Any remaining balance in

each petty cash account shall be transferred to the general fund on or before June 30 of each year.

D. The State Board of Education shall adopt appropriate rules and regulations and design standard forms for the proper conduct of the various school activity accounts.

E. The school activity fund custodian and the petty cash custodian shall be appointed by the board of education of the school district. The school activity fund custodian and the petty cash custodian shall give a surety bond in an amount determined by the board of education, but not less than One Thousand Dollars ($1,000.00). The premium of the surety bond shall be paid from the school activity fund <u>or the general fund</u>.

F. The local board of education is hereby authorized to invest activity funds as it determines appropriate. Upon direction of the local board of education, the custodian of the activity fund shall invest activity funds in any or all of the investments permitted and listed in Section 5-115 of this title.

G. The board of education of a school district may establish, by board resolution, a general fund refund subaccount within the school activity fund. The balance in the subaccount shall be determined by need, and it shall be funded by refunds and reimbursements received, including but not limited to, rental income, reimbursements for lost and damaged textbooks, summer school and adult tuition, overpayments and tax refunds, as well as transfers, by treasurer's check, from the school district general fund. The subaccount may be expended only for the refund of revenues previously received and deposited either into the subaccount or directly into the general fund. Any remaining balance in the refund subaccount shall be transferred to the school district general fund on or before June 30 of each year.

H. The board of education of a school district may authorize the custodian of the school activity funds to provide cash advances

to the sponsors for travel expenses on behalf of school district students and sponsors of certain school activities. The cash advances may only come from the school activity fund subaccount directly involved in the travel of such students or sponsor and only if the travel is one of the stated functions or purposes for the establishment of the subaccount. Receipts for all expenditures of the cash advances shall be kept and turned in to the custodian of the school activity fund following said trip.

I. Any invoice submitted to a school district which is to be paid from a school activity fund and is for payment of an authorized expenditure in an amount equal to or greater than the threshold amount stated in Section 310.9 of Title 62 ~~and Section 3109 of Title 74~~ of the Oklahoma Statutes shall conform to the requirements set forth in ~~these sections~~ that section.

SECTION 9. AMENDATORY 70 O.S. 2001, Section 5-134, is amended to read as follows:

Section 5-134. A. No later than December 31 of each year the board of education of each school district of the state shall prepare, on a form prescribed by the State Board of Education, a preliminary estimate of the amount or amounts of money and tax rate or rates which it then believes will be required for the district for the ensuing fiscal year; and if such preliminary estimate shows an estimated need for a levy requiring the approval of the school district electors of the district under Section 9 or Section 10~~,~~ of Article X~~,~~ of the Oklahoma Constitution, as amended on April 5, 1955, such preliminary estimate shall contain a call for an election to be held on the second Tuesday in February, or on such other date as may be provided for the election of the members of the board of education to vote on the question of making such levy or levies. In determining the eligibility of the school district to make an emergency levy under the provisions of subsection (d) of Section 9~~(d)~~ of Article X of the Oklahoma Constitution, as amended, the

legal current expenses of the district shall be all the expenditures from the general fund of the district during the preceding year, except (1) expenditures for transportation of pupils; (2) capital outlay; (3) debt service; and (4) the amount appropriated from any previous emergency levy; and the Two Hundred Fifty Dollars ($250.00) per capita cost fixed by said subsection (d) of Section 9~~(d)~~ of Article X~~,~~ of the Oklahoma Constitution, for the fiscal year ending June 30, 1956, is hereby increased to One Thousand Dollars ($1,000.00) for the fiscal year ending June 30, 1963, and said sum of One Thousand Dollars ($1,000.00) shall thereafter be increased or decreased by the State Board of Education in proportion to the increase or decrease in the per capita income of Oklahoma citizens. Such preliminary estimate shall be published in one issue of a newspaper having general circulation in the district at least ten (10) days before such election. Provided, that the county excise board or the board of education of any school district may call a special election for any date for the purpose of voting upon a levy authorized by Section 9 or ~~Section~~ 10~~,~~ of Article X of the Oklahoma Constitution, as amended. Notice of any election called under the provisions of this section shall be given by publication in one issue of a newspaper having general circulation in the school district at least ten (10) days before such election.

B. The requirements of this section shall not apply to school districts that have adopted a permanent millage pursuant to subsection (d-2) of Section 9 of Article X of the Oklahoma Constitution.

SECTION 10. AMENDATORY 70 O.S. 2001, Section 5-135, as amended by Section 21, Chapter 361, O.S.L. 2004 (70 O.S. Supp. 2004, Section 5-135), is amended to read as follows:

Section 5-135. A. The board of education of each school district shall use the following system of initiating, recording and paying for all purchases, salaries, wages or contractual obligations

due from any of the funds under the control of such board of education. However, a school district board of education may use the procedures outlined in Section 304.1 of Title 62 of the Oklahoma Statutes for the payment of salaries and wages only if the board so votes. The provisions contained herein shall not apply to the sinking fund and school activity fund.

B. The encumbrance clerk and treasurer of the school district shall each enter the authorized amounts in the various appropriation accounts of the funds to which this system is applied. The authorized amounts of appropriations shall be the general fund and building fund appropriations approved by the county excise board and such additional amounts as may be applied in the manner provided by law, the amount received for deposit in a special cash fund where such special cash fund is authorized by law or required by the person or agency providing such funds, or the amount of the net proceeds realized from the sale of bonds of the school district and any other income due such fund.

C. It shall be the duty and responsibility of the board of education of the school district to prescribe and administer adequate business procedures and controls governing the purchase or confirmation of purchase and delivery of goods or services. The procedures ~~may~~ shall include delivery of an acceptable invoice by document, facsimile, electronic or other standard form that includes the information required by the district. Such procedures shall include the designation of authorized persons to purchase goods or services for the district and the method of determining the school employee receiving delivery of each purchase.

D. Prior to the issuance of a purchase order, the encumbrance clerk must first determine that the encumbrance will not exceed the balance of the appropriation to be charged. The encumbrance clerk shall charge the appropriate appropriation accounts and credit the affected encumbrances outstanding accounts with the encumbrances. ~~A~~

~~copy of the encumbrance or purchase order may be used as the authority for the designated school personnel to complete the purchasing process.~~ Encumbrances must be submitted to the board of education in the order of their issuance on a monthly basis, subject to a monthly business cycle cut-off date determined by the board of education. Approved encumbrances shall be listed in the minutes by the minute clerk.

E. ~~After satisfactory receipt of the goods or services, the employee designated by the board of education to be responsible for the transaction shall certify the bill to the encumbrance clerk for payment. The encumbrance clerk, however, shall not pay any~~ Before any purchase is completed, a purchase order or encumbrance must be issued. No bill shall be paid unless it is~~, or is properly~~ supported by~~,~~ an itemized invoice clearly describing ~~each item~~ the items purchased, the quantity of each item, its unit price, ~~and~~ its total cost and proof of receipt of such goods or services. The bill and/or invoice shall be filed in the encumbrance clerk's official records. If a district has the ability to electronically utilize evaluated receipt settlement (ERS), the district may remit to vendors on that basis if the requirements of this subsection are fulfilled. In the event a district is establishing electronic data interchange, electronic entries will suffice in lieu of paper documents. In order for a district to be authorized to utilize an evaluated receipt settlement system:

1. ~~The ERS must have received the prior approval of the State Auditor and Inspector as conforming to industry standards governing ERS systems;~~

~~2.~~ The ERS must result in payment by the district from vendor receipts that have been matched to the purchase order date;

~~3.~~ 2. The ERS may only be used when there is an agreement between the district and the vendor for use of an ERS; and

~~4.~~ 3. The ERS must be included in the district's journal ledger/accounts payable/purchase order software.

F. The encumbrance clerk shall debit the encumbrances outstanding account and credit the accounts payable account for the amount of the approved bill. The board of education shall determine the extent such costs may fluctuate without additional board action. Minor adjustments not requiring additional board approval shall be referenced to the original encumbrance.

G. ~~After~~ An approved bill may be paid by issuing a warrant or check against the designated fund only after ascertaining that proper accounting of the purchase has been made and that the files contain ~~sufficient~~ the required information to justify the expenditure of public funds~~, the encumbrance clerk shall pay the approved bill by issuing a warrant or check against the designated fund~~, except as otherwise provided in subsection I of this section. The warrants or checks so issued shall be recorded in an orderly numerical system established by the district. The encumbrance clerk shall charge the warrant or checks against the accounts payable account and credit it to the warrants or checks issued account. Provided, if payment is to be made immediately and the board of education deems it advisable, the postings to the accounts payable account may be omitted and the payment of the approved bill may be credited directly to the warrants or checks issued account. The warrant or check shall show on its face the name of the school district, the date of issue, the payee, the amount, the expenditure classification code, and such other information as may be necessary or desirable. The president and clerk of the board of education shall each sign the warrant or check, or approved facsimile thereby denoting to the public that the warrant or check is for the purpose and within the amount of the appropriation charged.

H. The treasurer shall register the warrant or check in the warrant or check register, charging the appropriation account and

crediting the warrants or checks outstanding account of the designated fund. Provided, no warrant or check shall be registered in excess of the appropriation account's balance. All warrants or checks shall be registered in the order of their issuance. Voided warrants or checks shall be registered and filed with the treasurer. The treasurer shall sign each warrant or check through individual signature or approved facsimile showing its registration date and ~~stating~~, if issuing a warrant, shall state whether ~~the warrant~~ it is payable or nonpayable. When a warrant or check is paid, the treasurer shall maintain evidence the warrant or check has been processed and paid. Nothing in this subsection shall prohibit any governing board from using automated recordkeeping procedures, provided the information required in this subsection can be accessed.

I. Any board of education of a school district of this state may make a payment which would otherwise be made by warrant or check, by disbursement through an Automated Clearing House, bank account debit system, wire transfer through the Federal Reserve System, or any other automated payment system operated by a financial institution insured by the Federal Deposit Insurance Corporation. The internal controls over such payment system shall be reviewed and approved by the independent auditor of the district during the annual audit. The provisions of Sections 601 through 606 of Title 62 of the Oklahoma Statutes shall apply to instruments or payment authorized by this subsection.

J. School districts complying with the provisions of this act shall use only those forms and accounting systems approved by the State Board of Education. Such forms and systems shall be considered in substantial compliance with this act if they are sufficient to convey the meaning and sequence of transactions contained herein. Provided, nothing contained herein shall be construed to limit or prevent the use of additional or subsidiary

accounts, forms, or files which may be deemed necessary or advisable by the board of education of the district or the State Board of Education.

K. Any school district desiring to utilize the services of a data processing center to furnish any or all of the records herein required may do so if the center and its system complies with this act and the rules and regulations of the State Board of Education. Such center shall furnish an honesty bond in an amount to be set by the board of education but not less than Ten Thousand Dollars ($10,000.00).

L. The State Board of Education shall notify the board of education of the school district of the tentative amount ~~said~~ the district is to receive from state and federal aid funds or allocations, and the board of education of the school district may include such tentative estimate as an item of probable income in the preparation of the school district's Estimate of Needs and Financial Statement; provided, no such federal aid estimate shall be used in any way to reduce the State Foundation Aid or Incentive Aid for such school district or sustain a protest for the reduction of a tax levy.

SECTION 11. AMENDATORY 70 O.S. 2001, Section 9-108, is amended to read as follows:

Section 9-108. The board of education of any school district furnishing transportation is hereby authorized to furnish, in addition to free transportation to and from school, transportation within or without the district, within or outside of this state, for children attending the schools of that district, for the purpose of attending ~~community, county, and state fairs that admit school children free, for purposes connected with summer youth activities upon approval of the school board governing said school district, for transporting pupils on planned school field trips to state correctional institutions pursuant to the provisions of Section~~

~~1210.231 of this title, and for all other purposes approved by the State Board of Education. Provided, that upon request therefor by the State Director of Cooperative Extension Work in Agriculture and Home Economics (Service), or the Director of the Oklahoma Department of Career and Technology Education, or the State Supervisor of Vocational Agriculture, the State Board of Education shall authorize any school district furnishing transportation to provide transportation for school children participating in educational contests and activities outside of the State of Oklahoma, or outside of the districts in which they reside, and two~~ cocurricular and extracurricular activities. Two or more districts may enter into agreements for the furnishing of such transportation. The expense of any such additional transportation shall be paid by the children so transported, by the school activity or school organization receiving benefit from such transportation, or from other private sources. Money so collected shall not be chargeable to or become a part of the school district's finances.

SECTION 12. AMENDATORY 70 O.S. 2001, Section 9-109, as amended by Section 32, Chapter 397, O.S.L. 2002 (70 O.S. Supp. 2004, Section 9-109), is amended to read as follows:

Section 9-109. The State Board of Education is hereby authorized to request a price list and a complete description and specifications of any transportation equipment to be offered for sale to any school board or board of education of any district in the State of Oklahoma.

The State Board of Education shall examine such equipment to determine whether or not such equipment meets the requirements of the National School Bus Standards and such other specifications as the State Board of Education may determine as necessary to provide safe transportation for pupils to and from school and shall approve for sale to all schools in the State of Oklahoma transportation equipment, including bus bodies and chassis, which equipment meets

or exceeds the specifications provided for the National School Bus Standards and such other specifications as the State Board of Education may deem as necessary. Any equipment fueled by alternative fuels as defined in Section 130.13 of Title 74 of the Oklahoma Statutes shall also meet any federal safety standards specified for any equipment used to provide transportation for pupils to and from school. The State Board of Education may approve auxiliary transportation equipment that is not National School Bus Yellow in color.

The State Board of Education shall make a list of the equipment approved by them and the maximum price at which such equipment can be purchased. The list shall include a complete description of the equipment. Such description shall include the specification of the school bus bodies and chassis as well as the factory list price of such equipment at the various factories. Such list shall be made available to all school districts authorized to purchase transportation equipment. Provided, at any time there shall be any change of specifications or prices by manufacturers of chassis or bodies, there shall be filed with the State Board of Education a revised set of specifications and prices.

The school board or board of education of any school district authorized to furnish transportation for pupils to and from school and receiving any State Aid funds, except as provided for in this section, shall be required to purchase all their transportation equipment from the list so provided on sealed bids and at a price not greater than the price filed with the State Board of Education; and the State Board of Education shall be required to deduct from any State Aid for which the school district may qualify the amount paid by any school district for transportation equipment not approved by the State Board of Education or the amount paid greater than shown on the price list for that transportation equipment filed with the State Board of Education. Unless otherwise exempted by

this section, all purchases made under the provisions of this act for transportation shall be made upon sealed bids, and contract of purchase shall be awarded to the lowest and best bidder.

Provided, however, any purchase or sale of used transportation equipment ~~from one school district to another school district~~ shall not be subject to the list and sealed bid requirements as provided for in this section.

The State Board of Education shall ~~promulgate~~ adopt rules necessary for the administration of this section and shall require from school district boards of education such information and reports as necessary for proper administration of this section.

Any cost of administration of this section shall be paid by the State Board of Education from funds appropriated for the administration of the State Aid Law.

SECTION 13. AMENDATORY 70 O.S. 2001, Section 22-103, is amended to read as follows:

Section 22-103. A. The board of education of each school district in this state shall provide for and cause to be made an annual audit of such school district for each fiscal year. Said audit shall be a financial audit and a compliance audit of all funds of the school district, including the records of all student activity funds designated in Section 5-129 of this title. Such audit or audits shall be made at the end of the fiscal year; provided, however, the local board of education may require that audits be made at more frequent intervals.

B. Findings of material weaknesses, qualifications of the auditor's report and of defalcations, or a report of lack of such findings, shall be communicated in writing to the board. Upon completion of an audit, the auditor shall conduct the final exit interview at a meeting of the board. No part of the final exit interview shall be conducted with any employee of the board except in open meeting of the board; provided, portions of the final exit

interview related to matters which the board is authorized by law to consider in executive session may be so considered.

~~C. All public accountants and certified public accountants, as a condition of being approved by the State Board of Education to perform the annual audits of school districts pursuant to this section, shall comply with the most recent "Governmental Auditing Standards" of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, issued by the United States General Accounting Office. A copy of the peer review performed in accordance with the above standards shall be filed with the State Board of Education. Should the results of said peer review indicate that material deficiencies exist in the audit work performed by the reviewed auditing firm, the State Board of Education shall so notify the Oklahoma Accountancy Board. The State Board of Education shall immediately remove the reviewed firm from the approved list of school auditors for a period of at least two (2) years or until such time as the firm has demonstrated satisfactory correction of the deficiencies reported in the peer review.~~

SECTION 14. AMENDATORY 70 O.S. 2001, Section 22-104, is amended to read as follows:

Section 22-104. A. The audit of each public school shall be made in accordance with generally accepted auditing standards as defined by the American Institute of Certified Public Accountants and shall comply with the most recent Government Auditing Standards of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, issued by the United States Government Accountability Office, except in those instances in which such standards are in violation of the laws of the State of Oklahoma or the rules and regulations of the State Board of Education.

B. All accountants or partnerships of accountants, before entering into audit contracts required under this article, shall satisfy the State Board of Education that such accountant or at

least one partner of a partnership of accountants is a resident of the State of Oklahoma with at least two (2) years of public accounting experience and is currently maintaining an office in the State of Oklahoma. Any certified public accountant who is also an attorney licensed to practice law in the state and has engaged in the private practice of law for at least two (2) years shall be deemed to meet the experience requirement of this section.

C. Accountants or partnerships of accountants shall ~~make~~ submit their application with the most recent peer review and any letter of comment for approval or disapproval by the State Board of Education for the ensuing year on or before the first day of ~~March~~ January of each calendar year. If and when the State of Oklahoma requires all auditors to be licensed by the ~~State Board of Accountancy~~ Oklahoma Accountancy Board, each accountant or partnership of accountants shall also satisfy the State Board of Education that such accountants or partnership of accountants has been so licensed and is held in good standing by the Oklahoma Accountancy Board during the period in which the audit was conducted before being placed on the list of approved school auditors. Provided, that any accountant approved prior to the requirement of such license and who is still in good standing with the State Board of Education shall continue to be eligible for approval and inclusion on the list of approved auditors. ~~Provided, further, that any person who was eligible to be approved as an auditor as of July 1, 1967, shall have until July 1, 1978, to make application to the State Board of Education and upon proof of the fulfillment of the requirements provided for herein may be approved to be placed on the list of school auditors.~~

~~Provided, further, that all~~ D. All accountants or partnerships of accountants entering into audit contracts required under this article shall carry a minimum of Two Hundred Fifty Thousand Dollars ($250,000.00) accountants' professional liability insurance or the total amount of the budget being audited, whichever is less. ~~Any~~

~~such policy may exclude from coverage the first Five Thousand Dollars ($5,000.00) of any loss incurred. Provided further that national accounting firms having twenty-five or more offices throughout the fifty states may, by reason of their size and diversification, purchase insurance with a deductible provision in excess of Five Thousand Dollars ($5,000.00) and shall not be excluded solely because of such provision. Such exclusion shall not, however, be so construed as to relieve the person on whom such insurance is written from liability.~~

SECTION 15. AMENDATORY 70 O.S. 2001, Section 22-110, is amended to read as follows:

Section 22-110. A. In any case where an accountant or partnership of accountants has knowingly issued an audit report, required under the provisions of this article, containing any false or misleading statements the State Board of Education shall report such violation in writing to the board of education of such public school and in the case of Certified Public Accountants or partnerships of Certified Public Accountants, to the Oklahoma ~~State~~ Accountancy Board ~~of Certified Public Accountancy~~. The State Board of Education shall revoke their rights to perform such audits in the future.

B. Any member of the governing body of the local board of education or any member, officer, employee or agency of any department, board or commission of the public school who knowingly and willfully furnishes to the auditor or to his employee any false or fraudulent information shall be deemed guilty of malfeasance, and upon conviction, the court shall enter judgment that such person so convicted shall be removed from office or employment of said public school. It shall be the duty of the court rendering such judgment to cause immediate notice of such removal from office or employment to be given to the proper officer of the school district so that the vacancy thus caused may be filled.

SECTION 16. AMENDATORY 70 O.S. 2001, Section 135.2, is amended to read as follows:

Section 135.2 A. For the 1991-92 school year, school districts shall report financial transactions for all funds, except for the school activity fund, using the Oklahoma Cost Accounting System, as adopted by the State Board of Education pursuant to Section 5-135 of this title. Costs shall be reported by curricular subject area where applicable. For the 1992-93 school year and in each subsequent school year, school districts shall report financial transactions for all funds using the Oklahoma Cost Accounting System. Costs shall be reported by curricular subject area where applicable.

B. Beginning July 1, 1991, and in each subsequent school year, the State Department of Education shall reduce the monthly payment of a district's State Aid funds if, at the time of such payment, the district is not operating pursuant to the Oklahoma Cost Accounting System. The amount of the reduction shall be one percent (1%) for the first payment, two percent (2%) for the second payment, three percent (3%) for the third payment, four percent (4%) for the fourth payment, and five percent (5%) for each subsequent payment. The reduction may be waived by the State Board of Education if the district can demonstrate that failure to operate pursuant to such system was due to circumstances beyond the control of the district and that every effort is being made by the district to operate pursuant to such system as quickly as possible.

C. No later than September 1, 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 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 this title.

D. No later than September 1 each year, every school district shall transmit a copy of the income and expenditures data required pursuant to subsection C of this section to the State Department of Education. The Department shall post the income and expenditure data on the Internet website for the Department in a form that is accessible to the public.

SECTION 17. REPEALER 51 O.S. 2001, Section 168, is hereby repealed.

SECTION 18. REPEALER 70 O.S. 2001, Sections 5-134.1, as last amended by Section 20, Chapter 361, O.S.L. 2004, 5-135.3, as amended by Section 3, Chapter 414, O.S.L. 2002, 5-153, 18-123 and 22-107 (70 O.S. Supp. 2004, Sections 5-134.1 and 5-135.3), are hereby repealed.

SECTION 19. REPEALER 74 O.S. 2001, Section 3109, as amended by Section 4, Chapter 414, O.S.L. 2002 (74 O.S. Supp. 2004, Section 3109), is hereby repealed.

SECTION 20. This act shall become effective July 1, 2005.

SECTION 21. 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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