ENROLLED HOUSE
BILL NO. 1837

By: Jett and Auffet of the House

and

Laster of the Senate

An Act relating to schools; amending 70 O.S. 2001, Section 6-101, as amended by Section 3, Chapter 455, O.S.L. 2003 (70 O.S. Supp. 2004, Section 6-101), which relates to teacher contracts; allowing a board of education to contract with persons obtaining certification or licensure; prohibiting such persons from teaching in the classroom; providing for termination of contract under certain condition; amending 70 O.S. 2001, Sections 6-107, as amended by Section 9, Chapter 204, O.S.L. 2003 and 6-108 (70 O.S. Supp. 2004, Section 6-107), which relate to contracts with school employees; amending 70 O.S. 2001, Section 6-190, as last amended by Section 1, Chapter 438, O.S.L. 2004 (70 O.S. Supp. 2004, Section 6-190), which relates to teacher employment, certification, and licensure; providing certain exception; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 6-101, as amended by Section 3, Chapter 455, O.S.L. 2003 (70 O.S. Supp. 2004, Section 6-101), is amended to read as follows:

Section 6-101. A. Except as provided in subsection E of this section, no person shall be permitted to teach in any school district of the state without a written contract, except as provided herein for substitute teachers and except teachers of classes in adult education. ~~The~~ Except as provided in subsection J of this section, the board of education of each school district, wherein school is expected to be conducted for the ensuing year, shall employ and contract in writing with qualified teachers for and in the name of the district. One copy of the contract shall be filed with the clerk of the board of education and one copy shall be retained by the teacher.

B. Except as otherwise provided by subsection J of this section and any other law, no board of education shall have authority to enter into any written contract with a teacher who does not hold a valid certificate issued or recognized by the State Board of Education authorizing said teacher to teach the grades or subject matter for which the teacher is employed. Any board of education paying or authorizing the payment of the salary of any teacher not holding a certificate, as required herein, shall be adjudged to be

guilty of a fraudulent expenditure of public funds and members voting for such payment shall be held jointly responsible for the return of the amount of any public monies thus expended, upon suit brought by the district attorney or by any interested citizen in the district where such funds have been expended.

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

D. Whenever any person shall enter into a contract with any school district in Oklahoma to teach in such school district the contract shall be binding on the teacher and on the board of education until the teacher legally has been discharged from the teaching position or released by the board of education from the contract. Except as provided in ~~this act~~ Section 5-106A of this title, until such teacher has been thus discharged or released, the teacher shall not have authority to enter into a contract with any other board of education in Oklahoma for the same time covered by the original contract. If upon written complaint by the board of education in a district any teacher is reported to have failed to obey the terms of the contract previously made and to have entered into a contract with another board of education without having been released from the former contract except as provided in ~~this act~~ Section 5-106A of this title, the teacher, upon being found guilty of such charge at a hearing held before the State Board of Education, shall have such teacher's certificate suspended for the remainder of the term for which the contract was made.

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

F. Whenever a school district is engaged in contract negotiations with teachers employed by that school district after the school year has begun and the teachers are employed on a continuing contract basis, the school district shall, beginning at the first of the school year, pay the teachers any state-mandated salary increases and salary schedule increases to which each teacher is otherwise entitled.

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

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

I. A teacher may contract with more than one school district for the same school year as provided in Section ~~4~~ 5-106A of this ~~act~~ title.

J. A board of education shall have authority to enter into written contracts for the ensuing fiscal year prior to the beginning of the year with persons who are not certified or licensed to teach by the State Board of Education as long as the person is actively in the process of securing certification or licensure. The person shall not be allowed to teach in a classroom until the person has met or completed all of the requirements for licensure or certification as provided for in Section 6-190 of this title. If the person has not obtained valid certification or licensure by the first day of the ensuing school year, the contract shall be terminated.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 6-107, as amended by Section 9, Chapter 204, O.S.L. 2003 (70 O.S. Supp. 2004, Section 6-107), is amended to read as follows:

Section 6-107. A. Except for employment of a director of a public developmental research school as authorized in Section 1210.577 of this title and except as provided for in Section 6-101 of this title, it shall be unlawful for a member of the board of education of a school district to employ, approve or vote for the employment of any person to perform services for ~~such~~ the district unless the person employed holds a valid certificate of qualification issued in accordance with the rules of the State Board of Education to perform the services the person is employed to perform.

B. The State Department of Education shall require each person offered a position within the agency that requires working directly with children to furnish fingerprints to be used for a state and national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 70 O.S. 2001, Section 6-108, is amended to read as follows:

Section 6-108. Except for service as a director of a public developmental research school and service by a faculty member of a higher education institution affiliated with a public developmental research school as specifically authorized in this act and except as provided for in Section 6-101 of this title, it shall be unlawful for any person to serve, or to contract or agree to serve, as superintendent, elementary superintendent, principal, supervisor, librarian, school nurse, classroom teacher or other instructional, supervisory or administrative employee of a school district unless ~~such~~ the person holds a valid certificate of qualification issued in accordance with the rules of the State Board of Education to perform the services the person performs or contracts or agrees to perform. The State Board of Education shall provide for the certification of elementary superintendents.

SECTION 4. AMENDATORY 70 O.S. 2001, Section 6-190, as last amended by Section 1, Chapter 438, O.S.L. 2004 (70 O.S. Supp. 2004, Section 6-190), is amended to read as follows:

Section 6-190. A. The board of education of each school district shall employ and contract in writing, as required in Section 6-101 of this title, only with persons certified or licensed to teach by the State Board of Education in accordance with the Oklahoma Teacher Preparation Act, except as otherwise provided for by Section 6-101 of this title and by other law.

B. The Board shall issue a license to teach to any person who:

1. Has successfully completed the teacher education program required by the State Board of Education prior to July 1, 1997, and the Oklahoma Commission for Teacher Preparation beginning July 1, 1997;

2. Has graduated from an accredited institution of higher education that has approval or accreditation for teacher education;

3. Has met all other requirements as may be established by the Board;

4. Has made the necessary application and paid the competency examination fee in an amount and as prescribed by the Commission;

5. Has successfully completed the competency examination required in Section 6-187 of this title; and

6. Beginning November 1, 2001, has on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary license which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a license shall be responsible for the cost of the criminal history records.

C. The Board shall issue a certificate to teach to any person who:

1. a. holds a license to teach in accordance with the Oklahoma Teacher Preparation Act,

b. has served a minimum of one (1) school year as a resident teacher,

c. has made the necessary application and paid the certification fee as prescribed by the Board, and

d. has been recommended for certification by the residency committee;

2. Holds an out-of-state certificate and meets standards set by the Board; or

3. Holds certification from the National Board for Professional Teaching Standards.

D. Beginning July 1, 2004, any person applying for initial Oklahoma certification who has not applied for and received an Oklahoma teacher license shall have on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary certificate which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a certificate shall be responsible for the cost of the criminal history records.

E. If a resident teacher is a graduate of an out-of-state institution of higher education, the recommendation of the residency committee shall be made to the State Board of Education.

F. Any person holding a valid certificate, issued prior to January 1, 1997, shall be a certified teacher for purposes of the Oklahoma Teacher Preparation Act, subject to any professional development requirements prescribed by the Oklahoma Teacher Preparation Act or by the State Board of Education.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 10th day of May, 2005.

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Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of April, 2005.

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Presiding Officer of the Senate