

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 2161

By: Kern

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to schools; amending 70 O.S. 2001, Section 5-117, as last  
9 amended by Section 6, Chapter 472, O.S.L. 2005 (70 O.S. Supp. 2008, Section  
10 5-117), which relates to the powers and duties of a board of education;  
11 prohibiting certain speakers from speaking at certain teacher meetings for  
12 political purposes; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 70 O.S. 2001, Section 5-117, as last amended by Section 6,  
15 Chapter 472, O.S.L. 2005 (70 O.S. Supp. 2008, Section 5-117), is amended to read as follows:

16 Section 5-117. A. The board of education of each school district shall have power to:

17 1. Elect its own officers; provided that the chair of the board authorized in Section 5-107B of  
18 this title shall be elected by the electors of the school district;

19 2. Make rules, not inconsistent with the law or rules of the State Board of Education, governing  
20 the board and the school system of the district;

21 3. Maintain and operate a complete public school system of such character as the board of  
22 education shall deem best suited to the needs of the school district;

23 4. Designate the schools to be attended by the children of the district;  
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1 5. Provide and operate, when deemed advisable, cafeterias or other eating accommodations,  
2 thrift banks or other facilities for the teaching and practice of thrift and economy, bookstores, print  
3 shops, and vocational and other shops;

4 6. Provide informational material concerning school bond elections and millage elections,  
5 including but not limited to all pertinent financial information relative to the bond issue, a statement of  
6 revenue sources necessary to retire proposed bonds, a statement of current bonded indebtedness of the  
7 school district, and a statement of proposed use of funds to be generated by the proposed bond issue.  
8 The informational material shall not contain the words "vote yes" or "vote no" or any similar words or  
9 statement any place on such informational material;

10 7. Purchase, construct or rent, and operate and maintain, classrooms, libraries, auditoriums,  
11 gymnasiums, stadiums, recreation places and playgrounds, teacherages, school bus garages,  
12 laboratories, administration buildings, and other schoolhouses and school buildings, and acquire sites  
13 and equipment therefor;

- 14 8. a. Insure the school district or its employees against any loss, damage or liability as  
15 defined by Sections 702 through 708 of Title 36 of the Oklahoma Statutes, or  
16 other forms of insurance provided for in Title 36 of the Oklahoma Statutes.
- 17 b. Subject to the restrictions of liability in the Governmental Tort Claims Act:
- 18 (1) insure the school district against all or any part of any liability it may incur  
19 for death, injury or disability of any person, or for damage to property,  
20 either real or personal,
- 21 (2) insure any employee of the school district against all or any part of the  
22 employee's liability for injury or damage resulting from an act or omission  
23 in the scope of employment, or  
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1 (3) insure against the expense of defending a claim against the school district  
2 or its employee, whether or not liability exists on such claim.

3 c. As used in this subsection, “employee” means any person who has acted in behalf  
4 of a school district, whether that person is acting on a permanent or temporary  
5 basis with or without being compensated or on a full-time or part-time basis.

6 Employee also includes all elected or appointed officers, members of governing  
7 bodies of a school district, and persons appointed, and other persons designated  
8 by a school district to act in its behalf.

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

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

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

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

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

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

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

9 9. Acquire property by condemnation proceedings in the same manner as land is condemned for  
10 railroad purposes. School district funds may be used to erect buildings on leased land on which other  
11 buildings have been erected prior to April 3, 1969, or on land which is leased from a governmental  
12 entity;

13 10. Lease real or personal property to the state or any political subdivision thereof or a not-for-  
14 profit entity operating pursuant to Section 868 of Title 18 of the Oklahoma Statutes for nominal cash  
15 consideration for so long as the use of the property by the lessee substantially benefits, in whole or in  
16 part, the same public served by the school district;

17 11. Dispose of personal or real property no longer needed by the district by sale, exchange,  
18 lease, lease-purchase, sale and partial lease back, or otherwise. Real property shall be conveyed  
19 pursuant to a public sale, public bid, or private sale; provided however, unless otherwise prohibited by  
20 law, the board of education of a consolidated or annexed school district may convey real property to a  
21 local political subdivision without consideration. Prior to the sale of any real property, the board of  
22 education shall have the real property appraised. The appraisal shall be confidential until the real  
23 property is sold. When the real property is sold, the board of education shall make the appraisal  
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1 available for public inspection. Prior to the conveyance of any real property by private sale, the board  
2 of education shall have offered the real property for sale by public sale or public bid. Any conveyance  
3 of real property by private sale to a nonprofit organization, association, or corporation to be used for  
4 public purposes, unless for exchange, shall contain a reversionary clause which returns the real  
5 property to the board of education upon the cessation of the use without profit or for public purposes  
6 by the purchaser or the assigns of the purchaser;

7 12. Purchase necessary property, equipment, furniture, and supplies necessary to maintain and  
8 operate an adequate school system;

9 13. Incur all expenses, within the limitations provided for by law, necessary to perform all  
10 powers granted by the provisions of this section;

11 14. Contract with and fix the duties and compensation of physicians, dentists, optometrists,  
12 nurses, attorneys, superintendents, principals, teachers, bus drivers, janitors, and other necessary  
13 employees of the district;

14 15. Establish a written policy for reimbursement of necessary travel expenses of employees and  
15 members of the board. The policy may include in-district travel from the site of employment  
16 assignment which is necessary in the performance of employment duties. The written policy shall  
17 specify procedures, contain documentation requirements, and may include payment of meal expenses  
18 during authorized travel on a per diem allowance basis rather than itemized documentation;

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

23 17. Provide for employees' leaves of absence without pay;  
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1 18. Exercise sole control over all the schools and property of the district, subject to other  
2 provisions of the Oklahoma School Code;

3 19. Allow district-owned school buses to be used for transportation of students from other  
4 districts or educational institutions while within the district on educational tours. This shall not restrict  
5 the authority of the board to authorize any other use of such buses which may now be permitted by law  
6 or rule of the State Board of Education;

7 20. Enter into contractual agreements with the board of trustees of a multicounty library system,  
8 as defined in Section 4-103 of Title 65 of the Oklahoma Statutes, a city-county library commission, as  
9 defined in Section 152 of Title 65 of the Oklahoma Statutes, or a rural single county library system, as  
10 defined in Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as may be mutually  
11 agreed, except no district board of education may enter into any agreement under which the library  
12 services for the school would be provided at any site other than the school site or which would result in  
13 library services that do not meet accreditation standards as required by law or rule;

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

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

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

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

5 B. The board of education of any school district may rent, on a monthly basis, real and personal  
6 property, if such items are necessary for the operation of the school, and pay the rental charges for the  
7 usage during any fiscal year, or portion thereof, out of appropriations made and approved for current  
8 expense purposes during the fiscal year. Any such rental contract extending beyond June 30 of such  
9 fiscal year shall be void unless it contains provisions for mutual ratification of renewal pursuant to the  
10 conditions provided for in this subsection. It is the intent of this subsection to authorize boards of  
11 education to enter into lease contracts but not to incur any obligation against the school district in  
12 excess of the income and revenue provided for such purposes for the fiscal year in which such lease  
13 contract is operative. Any lease or lease-purchase agreement entered into by any board of education  
14 shall state the purchase price of real or personal property so leased. The lease or lease-purchase shall  
15 not be extended so as to cause payment of more than the original purchase price of the real or personal  
16 property, plus interest not to exceed the legal rate. When the purchase price plus interest has been  
17 paid, the property shall belong to the lessee and the lessor shall deliver a deed or bill of sale to the  
18 property to the lessee. When any real or personal property has been leased or rented during any fiscal  
19 year pursuant to the provisions of any contract which permits continuance of such rental for the  
20 remainder of such fiscal year, the renting or leasing thereof must be continued for the remainder of the  
21 fiscal year unless the board of education renting or leasing the same certifies by proper resolution  
22 entered in the minutes of the board of education that the continuance of such rental is unnecessary and  
23 contrary to the public interest.  
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1 C. The boards of education of two or more school districts may enter into cooperative  
2 agreements and maintain joint programs including, but not limited to, courses of instruction for  
3 handicapped children, courses of instruction in music and other subjects, practical instruction for trades  
4 and vocations, practical instruction in driver training courses, and health programs including visual  
5 care by persons legally licensed for such purpose, without favoritism as to either profession. The  
6 revenues necessary to operate a joint program approved in cooperative agreements, whether from  
7 federal, state or local sources, including the individual contributions of participating school districts,  
8 shall be deposited into a fund separate from all other appropriated funds. The beginning fund balance  
9 each year, combined with all actual revenues, including collected and estimated revenues, must be  
10 appropriated before being expended. Purchase orders shall be issued against available appropriations  
11 and, once goods or services have been received, either payable or nonpayable warrants shall be issued  
12 in payment of all purchase orders. The fund shall be reported as a separate appropriated fund in all the  
13 financial reports of the school district which is chosen by the other school districts to keep the  
14 accounting records of the joint program.

15 D. The boards of education of two or more school districts may enter into a mutual contract or  
16 separate contracts with a superintendent, administrator, or teacher or with a person to provide support  
17 services, to serve as superintendent, administrator, or teacher, as appropriately qualified, or to provide  
18 support services, for each contracting district upon such terms and conditions as the parties may agree.  
19 Nothing in this act shall be construed to authorize or require annexation or consolidation of any school  
20 districts or the closing of any school site except pursuant to law as set forth in Section 7-101 et seq. of  
21 this title.

22 E. Any school district may operate or maintain a school or schools on any military reservation  
23 which is within the boundaries of the school district or which is adjacent to the school district, and  
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1 provide the instruction in the school or schools to children of personnel on the military reservation and,  
2 in doing so, shall conform to all federal laws and requirements.

3 F. The board of education of each school district shall adopt and maintain on file in the office of  
4 the superintendent of schools appropriate personnel policy and sick leave guide. The guide shall be  
5 made available to the public.

6 G. The board of education of a school district shall not allow a speaker or speakers, including  
7 but not limited to an employee of the school district, an employee organization, or a candidate for  
8 political office, to speak at an in-service or other similar teacher meeting or distribute material at the  
9 meeting for the purpose of influencing the results of an election for state or local office or a ballot  
10 measure or for the purpose of soliciting funds for or against a candidate for state or local office or a  
11 ballot measure.

12 SECTION 2. It being immediately necessary for the preservation of the public peace, health and  
13 safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in  
14 full force from and after its passage and approval.

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