

THE HOUSE OF REPRESENTATIVES
Monday, February 9, 2009

House Bill No. 1647

HOUSE BILL NO. 1647 - By: ROUSSELOT of the House and GARRISON of the Senate.

An Act relating to schools; amending 70 O.S. 2001, Sections 5-113 and 5-113.1, which relate to the school district boards of education nepotism prohibition; updating statutory language; limiting application of school board member nepotism prohibition when employee is a substitute teacher or support employee; providing an exception for substitute teachers or support employees to school employee nepotism prohibition; making an exception for situations covered by other provisions of law; providing for codification; providing an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 70 O.S. 2001, Section 5-113, is amended to read
2 as follows:

3 Section 5-113. A. No person shall be eligible to be a candidate for or serve on a
4 board of education if ~~he or she~~ the person is currently employed by the school district
5 governed by that board of education or is related within the second degree by affinity or
6 consanguinity to any other member of the board of education or to any employee of the
7 school district governed by the board of education, ~~it being the.~~ The purpose of this
8 section is both to prohibit persons who are related within the second degree by affinity or
9 consanguinity from serving simultaneously on the same board of education of any school
10 district of this state and to prohibit persons who are related within the second degree of

1 consanguinity or affinity to an employee of a school district from serving on the board of
2 education governing the school district while such relative is employed.

3 B. If the relationship is based on affinity, ~~these~~ the prohibitions in this section shall
4 not apply to prevent members of boards of education who are serving on September 1,
5 1995, from serving the term for which they were elected or from serving successive terms
6 for which they may be elected, unless it is the member's spouse who is a member of the
7 board of education or an employee of the school district, then such prohibitions shall
8 apply.

9 C. The prohibitions set forth in this section shall not apply if the person related to
10 the board member within the second degree of affinity or consanguinity is employed as a
11 substitute teacher by the school district pursuant to the provisions of Section 6-105 of
12 this title or as a temporary substitute support employee if the school district has an
13 Average Daily Membership (ADM) of less than five thousand (5,000).

14 D. Any member of a board of education who violates the provisions of this section
15 shall be subject to the penalties prescribed by Sections 485 and 486 of Title 21 of the
16 Oklahoma Statutes.

17 SECTION 2. AMENDATORY 70 O.S. 2001, Section 5-113.1, is amended to
18 read as follows:

19 Section 5-113.1 A. Except as otherwise provided ~~herein~~ in this section, no person
20 may be employed or put under contract by a school district if that person is related to a
21 member of the board of education of that school district within the second degree of
22 consanguinity or affinity. A teacher or employee already under contract to or otherwise

1 employed by the school district at the time the relationship is established may continue
2 in said employment. Except as otherwise provided, a board member already serving at
3 the time the relationship is established may serve out the term for which the member
4 was elected but shall not be eligible to be a candidate for or serve successive terms of
5 office for which the member may be elected. ~~This provision~~

6 B. The provisions of this section shall not prevent a board member from serving
7 successive terms of office if otherwise eligible under the provision of Section 5-113 of this
8 title. No member of the board of education who has resigned from the board before ~~his or~~
9 ~~her~~ the term of the person has expired may be reappointed to the board to complete the
10 remainder of ~~his or her~~ the term if a teacher or employee related to the resigned member
11 of the board within the second degree of consanguinity or affinity was put under contract
12 or otherwise employed by the school district after the board member resigned.

13 C. The provisions of this section shall not prevent a person who is related to a
14 member of the board of education within the second degree of consanguinity or affinity
15 from being employed by the school district as a substitute teacher pursuant to the
16 provisions of Section 6-105 of this title or as a temporary substitute support employee if
17 the school district has an Average Daily Membership (ADM) of less than five thousand
18 (5,000).

19 D. Any member of a board of education who is related to a teacher or other
20 employee of the district within the second degree of consanguinity or affinity shall not
21 attend or participate in any regular or executive session of the board held to consider any
22 personnel matter or litigation relating to said teacher or employee; ~~provided however,~~

1 ~~the.~~ The member may vote on collective bargaining agreements or the renewal of
2 contracts as a group if the vote is necessary to form a quorum of the board of education
3 members. If more than one member of the board of education is related to a teacher or
4 employee, only the minimum number of those members which is necessary to form a
5 quorum shall be allowed to vote. Each board of education so affected shall adopt a
6 written policy establishing procedures on when such a member may vote on the renewal
7 of contracts or collective bargaining agreements.

8 ~~B. E.~~ Any member of a board of education who violates the provisions of this section
9 shall be subject to the penalties prescribed by Sections 485 and 486 of Title 21 of the
10 Oklahoma Statutes.

11 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 484.1 of Title 21, unless there is created a duplication in numbering,
13 reads as follows:

14 The provisions of Sections 481 through 484 of Title 21 of the Oklahoma Statutes
15 shall not apply to any situation covered by Sections 5-113 and 5-113.1 of Title 70 of the
16 Oklahoma Statutes.

17 SECTION 4. This act shall become effective July 1, 2009.

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

21 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02-05-09
22 - DO PASS, As Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.