

SB 2108

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THE STATE SENATE
Monday, February 22, 2010

Senate Bill No. 2108
As Amended

SENATE BILL NO. 2108 - By: Leftwich of the Senate and Terrill of the House.

[schools - powers and duties of school district boards -
modifying authority -
emergency]

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 5-117, as last amended by Section 3, Chapter 250, O.S.L. 2009 (70 O.S. Supp. 2009, 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;

1 4. Designate the schools to be attended by the children of the
2 district;

3 5. Provide and operate, when deemed advisable, cafeterias or
4 other eating accommodations, thrift banks or other facilities for
5 the teaching and practice of thrift and economy, bookstores, print
6 shops, and vocational and other shops;

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

16 7. Purchase, construct or rent, and operate and maintain,
17 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation
18 places and playgrounds, teacherages, school bus garages,
19 laboratories, administration buildings, and other schoolhouses and
20 school buildings, and acquire sites and equipment therefor;

21 8. a. Insure the school district or its employees against
22 any loss, damage or liability as defined by Sections
23 702 through 708 of Title 36 of the Oklahoma Statutes,

1 or other forms of insurance provided for in Title 36
2 of the Oklahoma Statutes.

3 b. Subject to the restrictions of liability in the
4 Governmental Tort Claims Act:

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

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

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

16 c. As used in this subsection, "employee" means any
17 person who has acted in behalf of a school district,
18 whether that person is acting on a permanent or
19 temporary basis with or without being compensated or
20 on a full-time or part-time basis. Employee also
21 includes all elected or appointed officers, members of
22 governing bodies of a school district, and persons

1 appointed, and other persons designated by a school
2 district to act in its behalf.

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

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

8 (1) self-insurance, which may be, but is not required
9 to be, funded by appropriations to establish or
10 maintain reserves for self-insurance purposes.

11 Any self-insurance reserve fund shall be
12 nonfiscal and shall not be considered in
13 computing any levy when the school district makes
14 its annual estimate for needed appropriations,

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

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

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

21 f. Two or more school districts or public agencies, by
22 interlocal agreement made pursuant to the Interlocal
23 Cooperation Act, may provide insurance for any purpose

1 by any one or more of the methods specified in this
2 section. The pooling of self-insured reserves, claims
3 or losses among governments as authorized in this
4 section shall not be construed to be transacting
5 insurance nor otherwise subject to the provisions of
6 the laws of this state regulating insurance or
7 insurance companies. Two or more school districts may
8 also be insured under a master policy or contract of
9 insurance. Premium costs may be set individually for
10 each school district or apportioned among
11 participating school districts as provided by the
12 master policy or contract;

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

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

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

1 12. Purchase necessary property, equipment, furniture, and
2 supplies necessary to maintain and operate an adequate school
3 system;

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

7 14. Contract with and fix the duties and compensation of
8 physicians, dentists, optometrists, nurses, attorneys,
9 superintendents, principals, teachers, bus drivers, janitors, and
10 other necessary employees of the district;

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

19 16. Pay necessary travel expenses and other related expenses of
20 prospective employees for sponsored visits to the school district
21 pursuant to a written policy specifying procedures containing
22 documentation requirements equal to or greater than the requirements

1 specified by law for state employees in the State Travel
2 Reimbursement Act;

3 17. Provide for employees' leaves of absence without pay;

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

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

13 20. Enter into contractual agreements with the board of
14 trustees of a multicounty library system, as defined in Section 4-
15 103 of Title 65 of the Oklahoma Statutes, a city-county library
16 commission, as defined in Section 152 of Title 65 of the Oklahoma
17 Statutes, or a rural single county library system, as defined in
18 Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as
19 may be mutually agreed, except no district board of education may
20 enter into any agreement under which the library services for the
21 school would be provided at any site other than the school site or
22 which would result in library services that do not meet
23 accreditation standards as required by law or rule;

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

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

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

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

20 B. The board of education of any school district may rent real
21 and personal property, if such items are necessary for the operation
22 of the school, and pay the rental charges for the usage during any
23 fiscal year, or portion thereof, out of appropriations made and

1 approved for current expense purposes during the fiscal year. Any
2 rental contract extending beyond June 30 of the fiscal year shall be
3 void unless it contains provisions for mutual ratification of
4 renewal pursuant to the conditions provided for in this subsection.
5 It is the intent of this subsection to authorize boards of education
6 to enter into lease contracts but not to incur any obligation
7 against the school district in excess of the income and revenue
8 provided for such purposes for the fiscal year in which the lease
9 contract is operative. Any lease or lease-purchase agreement
10 entered into by any board of education shall state the purchase
11 price of real or personal property so leased. The lease or lease-
12 purchase shall not be extended so as to cause payment of more than
13 the original purchase price of the real or personal property, plus
14 interest not to exceed the legal rate. When the purchase price plus
15 interest has been paid, the property shall belong to the lessee and
16 the lessor shall deliver a deed or bill of sale to the property to
17 the lessee. When any real or personal property has been leased or
18 rented during any fiscal year pursuant to the provisions of any
19 contract which permits continuance of the rental for the remainder
20 of the fiscal year, the renting or leasing of the property shall be
21 continued for the remainder of the fiscal year unless the board of
22 education renting or leasing the same certifies by proper resolution
23 entered in the minutes of the board of education that the

1 continuance of the rental is unnecessary and contrary to the public
2 interest. Any lease-purchase agreement entered into shall include
3 the right of a school district to acquire buildings, equipment or
4 other facilities or discrete components thereof or improve school
5 sites through a lease-purchase agreement. A school district may use
6 proceeds derived from the sale of bonds as authorized by Section 26
7 of Article X of the Oklahoma Constitution to make lease-purchase
8 payments, including interest, under a lease-purchase agreement. For
9 purposes of this subsection, the term "acquired" as used in Section
10 26 of Article X of the Oklahoma Constitution shall mean the
11 possession, control, or power to dispose of personal or real
12 property.

13 C. The boards of education of two or more school districts may
14 enter into cooperative agreements and maintain joint programs
15 including, but not limited to, courses of instruction for
16 handicapped children, courses of instruction in music and other
17 subjects, practical instruction for trades and vocations, practical
18 instruction in driver training courses, and health programs
19 including visual care by persons legally licensed for such purpose,
20 without favoritism as to either profession. The revenues necessary
21 to operate a joint program approved in cooperative agreements,
22 whether from federal, state or local sources, including the
23 individual contributions of participating school districts, shall be

1 deposited into a fund separate from all other appropriated funds.
2 The beginning fund balance each year, combined with all actual
3 revenues, including collected and estimated revenues, must be
4 appropriated before being expended. Purchase orders shall be issued
5 against available appropriations and, once goods or services have
6 been received, either payable or nonpayable warrants shall be issued
7 in payment of all purchase orders. The fund shall be reported as a
8 separate appropriated fund in all the financial reports of the
9 school district which is chosen by the other school districts to
10 keep the accounting records of the joint program.

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

21 E. Any school district may operate or maintain a school or
22 schools on any military reservation which is within the boundaries
23 of the school district or which is adjacent to the school district,

1 and provide the instruction in the school or schools to children of
2 personnel on the military reservation and, in doing so, shall
3 conform to all federal laws and requirements.

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-17-10 - DO
13 PASS, As Amended and Coauthored.