STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1174 By: Crain

AS INTRODUCED

An Act relating to public schools; amending 70 O.S. 2011, Section 5-117, as last amended by Section 1, Chapter 166, O.S.L. 2015 (70 O.S. Supp. 2015, Section 5-117), which relates to powers and duties of boards of education; adding reference to certain purchasing plans; requiring boards of education to adopt central purchasing plans for purchase of goods and services by certain date; stating exception; requiring explanation for certain purchases; stating procedures; authorizing the Office of Management and Enterprise Services Central Purchasing Division to assist boards of education in preparing plans; providing for codification; and declaring an 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 5-117c of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2017, each board of education of any public school district, as defined in Section 1-106 of Title 70 of the Oklahoma Statutes, shall be required to establish a plan of competitive bidding which is substantially in compliance with the provisions of the Oklahoma Central Purchasing Act pursuant to

Section 85.1 et seq. of Title 74 of the Oklahoma Statutes, for all goods and services purchased by the school district with a value exceeding Five Thousand Dollars ($5,000.00).

B. Plans adopted pursuant to this act shall have similar requirements to those contained in the Oklahoma Central Purchasing Act for the purchase of goods and services purchased by school districts including the requirements to utilize the State Use Program, the Oklahoma Correctional Industries Program and use of statewide contracts as such options are available and appropriate.

C. 1. When a board of education makes a purchase of goods or services, issues an invitation to bid or makes a request for proposal based on a plan as required herein, such invitation or bid proposal shall fully outline each criteria the school district will use to determine the winning bid.

2. A school district shall be required to explain in writing their reasons for purchasing goods or awarding contracts for services from any supplier or bidder which was not the lowest responsible bidder based on the criteria contained in the invitation to bid or request for proposal.

3. Such explanation shall be presented and approved by the School Board, following public notice published in accordance with requirements of the Oklahoma Open Meetings Act, and with sufficient information identifying the requirements of the bid and the

difference between the amount of the lowest bid and the accepted bid.

D. The provisions of this section shall not apply to employment contracts with teachers, employees or other staff employed by the school district, or professional services.

E. The Office of Management and Enterprise Services Central Purchasing Division may assist any public school district in developing a central purchasing system as required by this act.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 5-117, as last amended by Section 1, Chapter 166, O.S.L. 2015 (70 O.S. Supp. 2015, 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. 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 Governmental Tort Claims 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, except as to the provisions of Section 607.1 of Title 36 of the Oklahoma Statutes. 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 or any other school district may convey real property to a local political subdivision or to an educational institution within The Oklahoma State System of Higher Education 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<u>, in accordance with a central purchasing plan established by the board pursuant to the provisions of Section 1 of this act</u>;

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;

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;

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;

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

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

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;

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;

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;

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;

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

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 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 rental contract extending beyond June 30 of the 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 the 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 the rental for the remainder of the fiscal year, the renting or leasing of the property shall 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 the rental is unnecessary and contrary to the public interest. Any lease-purchase agreement entered into shall include the right of a school district to acquire buildings, equipment or other facilities or discrete components thereof or improve school sites through a lease-purchase agreement. A school district may use proceeds derived from the sale of bonds as authorized by Section 26 of Article X of the Oklahoma Constitution to make lease-purchase payments, including interest, under a lease-purchase agreement. For purposes of this subsection, the term "acquired" as used in Section 26 of Article X of the Oklahoma Constitution shall mean the

possession, control, or power to dispose of personal or real property.

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.

G. The board of education of any school district with an average daily membership of thirty thousand (30,000) or more and all or part of which school district is located in a county having more than five hundred thousand (500,000) population according to the

latest Federal Decennial Census may contract with a public or private nonsectarian entity for that entity to provide educational and administrative services for the school district. The educational services provided by a contracting entity may include but are not limited to the delivery of instructional service in core and noncore academic subjects to the students enrolled in the school district at one or more school sites or parts of sites within the district pursuant to the terms of an educational services contract. All educational service providers and their employees and representatives and all educational and administrative services provided under an educational services contract shall be exempt from all statutes and rules relating to schools, boards of education and school districts to the same extent that a charter school is exempt under the Oklahoma Charter Schools Act. For all purposes, including but not limited to attendance, funding from all sources and accountability, all students who are provided services by a contracting entity pursuant to an educational services contract shall at all times be and remain students of the school district.

SECTION 3. 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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