

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2161

By: Kern, Reynolds and Enns of
the House

and

Stanislawski of the Senate

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 2001,
Section 5-117, as last amended by Section 6, Chapter
472, O.S.L. 2005 (70 O.S. Supp. 2008, Section 5-117),
which relates to the powers and duties of a board of
education; prohibiting distribution of certain
material and speaking at certain teacher meetings for
certain purposes; and providing an effective date.

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 6, Chapter 472, O.S.L. 2005 (70 O.S. Supp.
2008, 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 1. Elect its own officers; provided that the chair of the board
2 authorized in Section 5-107B of this title shall be elected by the
3 electors of the school district;

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

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

10 4. Designate the schools to be attended by the children of the
11 district;

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

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

1 7. Purchase, construct or rent, and operate and maintain,
2 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation
3 places and playgrounds, teacherages, school bus garages,
4 laboratories, administration buildings, and other schoolhouses and
5 school buildings, and acquire sites and equipment therefor;

6 8. a. Insure the school district or its employees against
7 any loss, damage or liability as defined by Sections
8 702 through 708 of Title 36 of the Oklahoma Statutes,
9 or other forms of insurance provided for in Title 36
10 of the Oklahoma Statutes.

11 b. Subject to the restrictions of liability in the
12 Governmental Tort Claims Act:

13 (1) insure the school district against all or any
14 part of any liability it may incur for death,
15 injury or disability of any person, or for damage
16 to property, either real or personal,

17 (2) insure any employee of the school district
18 against all or any part of the employee's
19 liability for injury or damage resulting from an
20 act or omission in the scope of employment, or

21 (3) insure against the expense of defending a claim
22 against the school district or its employee,
23 whether or not liability exists on such claim.
24

- 1 c. As used in this subsection, "employee" means any
2 person who has acted in behalf of a school district,
3 whether that person is acting on a permanent or
4 temporary basis with or without being compensated or
5 on a full-time or part-time basis. Employee also
6 includes all elected or appointed officers, members of
7 governing bodies of a school district, and persons
8 appointed, and other persons designated by a school
9 district to act in its behalf.
- 10 d. The cost or premium of any such insurance is a proper
11 expenditure of the school district.
- 12 e. Any insurance authorized by law to be purchased,
13 obtained or provided by a school district may be
14 provided by:
- 15 (1) self-insurance, which may be, but is not required
16 to be, funded by appropriations to establish or
17 maintain reserves for self-insurance purposes.
18 Any self-insurance reserve fund shall be
19 nonfiscal and shall not be considered in
20 computing any levy when the school district makes
21 its annual estimate for needed appropriations,
- 22 (2) insurance in any insurer authorized to transact
23 insurance in this state,
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1 (3) insurance secured in accordance with any other
2 method provided by law, or

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

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

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

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

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

1 cessation of the use without profit or for public purposes by the
2 purchaser or the assigns of the purchaser;

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

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

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

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

21 16. Pay necessary travel expenses and other related expenses of
22 prospective employees for sponsored visits to the school district
23 pursuant to a written policy specifying procedures containing
24 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;

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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, on a
21 monthly basis, real and personal property, if such items are
22 necessary for the operation of the school, and pay the rental
23 charges for the usage during any fiscal year, or portion thereof,
24 out of appropriations made and approved for current expense purposes

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

1 C. The boards of education of two or more school districts may
2 enter into cooperative agreements and maintain joint programs
3 including, but not limited to, courses of instruction for
4 handicapped children, courses of instruction in music and other
5 subjects, practical instruction for trades and vocations, practical
6 instruction in driver training courses, and health programs
7 including visual care by persons legally licensed for such purpose,
8 without favoritism as to either profession. The revenues necessary
9 to operate a joint program approved in cooperative agreements,
10 whether from federal, state or local sources, including the
11 individual contributions of participating school districts, shall be
12 deposited into a fund separate from all other appropriated funds.
13 The beginning fund balance each year, combined with all actual
14 revenues, including collected and estimated revenues, must be
15 appropriated before being expended. Purchase orders shall be issued
16 against available appropriations and, once goods or services have
17 been received, either payable or nonpayable warrants shall be issued
18 in payment of all purchase orders. The fund shall be reported as a
19 separate appropriated fund in all the financial reports of the
20 school district which is chosen by the other school districts to
21 keep the accounting records of the joint program.

22 D. The boards of education of two or more school districts may
23 enter into a mutual contract or separate contracts with a
24 superintendent, administrator, or teacher or with a person to

1 provide support services, to serve as superintendent, administrator,
2 or teacher, as appropriately qualified, or to provide support
3 services, for each contracting district upon such terms and
4 conditions as the parties may agree. Nothing in this act shall be
5 construed to authorize or require annexation or consolidation of any
6 school districts or the closing of any school site except pursuant
7 to law as set forth in Section 7-101 et seq. of this title.

8 E. Any school district may operate or maintain a school or
9 schools on any military reservation which is within the boundaries
10 of the school district or which is adjacent to the school district,
11 and provide the instruction in the school or schools to children of
12 personnel on the military reservation and, in doing so, shall
13 conform to all federal laws and requirements.

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

18 G. The board of education of a school district shall not allow
19 any individual or organization to speak or distribute material at an
20 in-service or other similar teacher meeting for which attendance is
21 required by the district, when the information shared is for the
22 purpose of:

23 1. Influencing the results of an election for state or local
24 office or a ballot measure, excluding school bond elections; or

1 2. Soliciting funds for or against a candidate for state or
2 local office or a ballot measure.

3 SECTION 2. This act shall become effective November 1, 2009.

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