

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1187, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Jolley

Jolley-EB-FS-Req#3201
3/9/2016 9:10 AM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 1187

By: Jolley of the Senate

and

Hickman of the House

FLOOR SUBSTITUTE

An Act relating to schools; amending Section 1, Chapter 312, O.S.L. 2013, as amended by Section 3, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2015, Section 3-129.11), which relates to the School District Empowerment Program; removing certain requirements for participation; directing the State Board of Education to promulgate certain rules; amending 70 O.S. 2011, Section 3-129.3, which relates to empowerment plans; updating reference; providing method for approving collective bargaining agreement changes; amending 70 O.S. 2011, Section 5-142, as last amended by Section 1, Chapter 12, O.S.L. 2015 (70 O.S. Supp. 2015, Section 5-142), which relates to criminal history record checks; modifying reference; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 312, O.S.L. 2013, as amended by Section 3, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2015, Section 3-129.11), is amended to read as follows:

1 Section 3-129.11. A. There is hereby established the School
2 District Empowerment Program which shall be administered by the
3 State Board of Education. The purpose of the program is to empower
4 locally elected school board members to govern school districts and
5 make decisions based on the needs of their students and
6 circumstances.

7 B. 1. Subject to the provisions of this section, a school
8 district shall be allowed to submit a request to the State Board of
9 Education for an exemption from all statutory requirements and State
10 Board of Education rules from which charter schools are exempt, as
11 provided for in the Oklahoma Charter Schools Act. Any request for
12 exemption shall include a plan which outlines the goals sought to be
13 achieved at a minimum, include the educational and fiscal benefits
14 and the anticipated impacts or outcomes the plan will have in the
15 district.

16 2. Within ninety (90) days after receiving the request and
17 plan, the State Board shall approve or disapprove the request. If
18 the State Board does not approve the request, it shall provide to
19 the school district a written explanation of the basis for its
20 decision. The school district may resubmit an amended request at
21 any time after the denial. The request shall be approved by the
22 State Board before implementation by the school district. An
23 approved request and plan shall be for no longer than three (3)
24 years. Prior to the beginning of the third year, the school

1 district may apply for renewal of the approved request and plan.

2 The school district shall be required to submit an annual report and
3 the State Board shall annually assess the academic achievement and
4 fiscal status of the school district.

5 C. Nothing in this section shall prevent a school district
6 board of education from choosing to follow any or all state laws,
7 rules or regulations from which a charter school is exempt. A
8 school district which has been granted approval by the State Board
9 for exemption as set forth in subsection B of this section shall
10 have the option to adopt policies to implement any requirement for
11 the school district that is consistent with any statutory
12 requirement, ~~or mandate or State Board rule, but a participating~~
13 ~~school shall comply with the following requirements:~~

14 ~~1. Students who reside in the school district shall be entitled~~
15 ~~to attend school in the district as set forth in Section 1-114 of~~
16 ~~this title;~~

17 ~~2. School districts shall comply with the requirements of the~~
18 ~~minimum salary schedule for teachers as set forth in Section 18-~~
19 ~~114.12 of this title;~~

20 ~~3. Employees of school districts shall continue to participate~~
21 ~~as members of the Teachers' Retirement System of Oklahoma as set~~
22 ~~forth in Section 17-101 et seq. of this title;~~

23 ~~4. School districts shall comply with the requirement to~~
24 ~~provide a health insurance plan for school district employees as set~~

~~forth in Section 5-117.5 of this title and to establish or make
available to school district employees a cafeteria plan as set forth
in Section 26-104 of this title;~~

~~5. School districts shall require any person employed by the
school district to file with the district board a current Oklahoma
criminal history record check from the Oklahoma State Bureau of
Investigation as well as a national criminal history record check as
defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Each
district shall adopt a policy regarding criminal history record
checks as set forth in Section 5-142 of this title;~~

~~6. School districts shall comply with the requirement to
evaluate teachers and to train personnel designated to conduct
personnel evaluations as set forth in Sections 6-101.10 and 6-101.11
of this title, the dismissal and due process procedures for
administrators as set forth in Sections 6-101.13 through 6-101.15 of
this title and the due process procedures for teachers as set forth
in Sections 6-101.21 through 6-101.26 of this title;~~

~~7. School districts shall comply with the requirement to make
payroll deductions for either or both professional organization dues
and political contributions upon the request of an employee as set
forth in Section 5-139 of this title;~~

~~8. School districts shall comply with the dismissal and due
process procedures for education support employees as set forth in
Sections 6-101.40 through 6-101.47 of this title;~~

1 ~~9. School districts shall employ as teachers, counselors,~~
2 ~~librarians, school nurses, superintendents, principals, supervisors~~
3 ~~or any other instructional, supervisory or administrative employee~~
4 ~~only those persons who are certified by the State Board of Education~~
5 ~~in accordance with the Oklahoma Teacher Preparation Act, except for~~
6 ~~persons exempt from the certification requirements as otherwise~~
7 ~~provided by law;~~

8 ~~10. School districts shall provide for negotiations between~~
9 ~~school employees and school districts as set forth in Sections 509.1~~
10 ~~through 509.11 of this title;~~

11 ~~11. School districts shall be required to offer and students~~
12 ~~enrolled in the school district shall be required to complete the~~
13 ~~curriculum requirements as set forth in Section 11-103.6 of this~~
14 ~~title;~~

15 ~~12. Students enrolled in the school district shall be required~~
16 ~~to demonstrate mastery of the state academic content standards as~~
17 ~~set forth in Section 1210.523 of this title; and~~

18 ~~13. Members of the school district board of education shall be~~
19 ~~required to satisfy the instruction and continuing education~~
20 ~~requirements as set forth in Sections 5-110, 5-110.1 and 5-110.2 of~~
21 ~~this title.~~

22 D. The State Board of Education shall promulgate rules to
23 determine when an empowered school district or empowered school site
24

1 will lose its empowered status based on student achievement and/or
2 academic growth.

3 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-129.3, is
4 amended to read as follows:

5 Section 3-129.3. A. 1. A public school, zone~~7~~ or district may
6 submit to its school district board of education an empowerment plan
7 as described in subsection C of this section.

8 2. A school district board of education shall receive and
9 review each empowerment plan submitted pursuant to paragraph 1 of
10 this subsection. The school district board of education shall
11 either approve or disapprove the empowerment plan within sixty (60)
12 days after receiving the plan.

13 3. If the school district board of education rejects the plan,
14 it shall provide to the public school, zone~~7~~ or district that
15 submitted the plan a written explanation of the basis for its
16 decision. A public school, zone~~7~~ or district may resubmit an
17 amended empowerment plan at any time after denial.

18 4. If the school district board of education approves the plan,
19 it shall proceed to seek approval of the school, zone~~7~~ or district
20 as an empowered school, zone~~7~~ or district pursuant to ~~Section 6 of~~
21 ~~this act~~ Section 3-129.6 of this title.

22 B. A school district board of education may initiate and
23 collaborate with one or more public schools of the school district
24 to create one or more empowerment plans, as described in subsection

1 C of this section. In creating an empowerment plan the school
2 district board of education shall ensure that each public school
3 that would be affected by the plan has the opportunity to
4 participate in the creation of the plan.

5 C. Each empowerment plan shall include the following
6 information:

7 1. A statement of the mission of the school, zone~~7~~ or district
8 and why designation as an empowered school, zone~~7~~ or district would
9 enhance the ability of the school, zone~~7~~ or district to achieve its
10 mission;

11 2. A description of the innovations the school, zone~~7~~ or
12 district would implement, which may include, but not be limited to,
13 innovations in school staffing, curriculum and assessment, class
14 scheduling, use of financial and other resources~~7~~ and faculty
15 recruitment, employment, evaluation~~7~~ and compensation;

16 3. A listing of the programs, policies~~7~~ or operational
17 documents within the school, zone~~7~~ or district that would be
18 affected by the innovations identified by the school, zone~~7~~ or
19 district and the manner in which they would be affected. The
20 programs, policies~~7~~ or operational documents may include, but not be
21 limited to:

- 22 a. the research-based educational program to be implemented,
23 b. the length of school day and school year,

1 c. the student promotion and graduation policies to be
2 implemented,

3 d. the assessment plan,

4 e. the proposed budget, and

5 f. the proposed staffing plan;

6 4. A description of any statutory, regulatory, or district
7 policy requirements that would need to be waived for the school,
8 zone or district to implement the identified innovations;

9 5. A description of any provision of the collective bargaining
10 agreement in effect for the personnel at the school, zone or
11 district that would need to be waived for the school, zone or
12 district to implement its identified innovation;

13 6. An identification of the improvements in academic
14 performance that the school, zone or district expects to achieve in
15 implementing the innovations;

16 7. An estimate of the cost savings and increased efficiencies,
17 if any, the school, zone or district expects to achieve in
18 implementing the identified innovations;

19 8. Evidence that both a majority of the administrators and a
20 majority of the teachers employed at the school, zone or district
21 approve the empowerment plan and consent to the designation as an
22 empowered school, zone or district. In the event the empowerment
23 plan alters the terms of any collective bargaining agreement between
24 the district and the collective bargaining unit representing the

1 teachers, a sixty percent (60%) supermajority shall be required of
2 the membership of the local collective bargaining unit pursuant to
3 Section 3-129.8 of this title. The determination of approval and
4 consent of the plan shall be obtained by means of a secret ballot
5 vote;

6 9. A statement of the level of support for designation as an
7 empowered school, zone~~7~~ or district demonstrated by the other
8 persons employed at the school, zone~~7~~ or district, the students and
9 parents of students enrolled in the school, zone~~7~~ or district, and
10 the community surrounding the school, zone~~7~~ or district; and

11 10. Any additional information required by the school district
12 board of education of the school district in which the empowerment
13 plan would be implemented.

14 D. Each plan for creating an empowered school~~7~~, zone or district
15 whether submitted by a group of public schools or created by a
16 school district board of education through collaboration with a
17 group of public schools, shall also include the following additional
18 information:

19 1. A description of how innovations in the schools in the
20 empowered school zone or district would be integrated to achieve
21 results that would be less likely to be accomplished by each school
22 working alone; and
23
24

1 2. An estimate of any economies of scale that would be achieved
2 by innovations implemented jointly by the schools within the
3 empowered school, zone or district.

4 E. No employee of a school, zone, ~~or~~ or district shall be
5 discriminated against by the school district board of education, the
6 superintendent of the school district, ~~or~~ or any other administrative
7 officer of the school district or by any employee organization, an
8 officer of the organization, ~~or~~ or a member of the organization for
9 exercising or not exercising the rights provided for under the
10 Empowered Schools and School Districts Act. An employee of a school
11 district or an officer or member of an employee organization shall
12 be prohibited from impeding, restraining or coercing an employee of
13 a school, zone or district from exercising the rights provided for
14 under the act or causing an employer to impede, restrain or coerce
15 an employee from exercising the rights provided for under the act.

16 SECTION 3. AMENDATORY 70 O.S. 2011, Section 5-142, as
17 last amended by Section 1, Chapter 12, O.S.L. 2015 (70 O.S. Supp.
18 2015, Section 5-142), is amended to read as follows:

19 Section 5-142. A. Except as otherwise provided for in
20 subsection F of this section, for purposes of employment, a board of
21 education may request in writing to the State Board of Education
22 that a national criminal history record check be conducted of any
23 employee of the school and shall request such information for any
24 person seeking employment with ~~the~~ a school, charter school or

1 empowered school. The Oklahoma State Bureau of Investigation (OSBI)
2 shall obtain fingerprints of the employee or prospective employee
3 and require that the person pay a search fee not to exceed Fifty
4 Dollars (\$50.00) or the cost of the search, whichever is the lesser
5 amount. The fees shall be deposited in the OSBI Revolving Fund.
6 School districts may reimburse employees for the cost of the search.
7 The State Board of Education shall contact the Oklahoma State Bureau
8 of Investigation for any national criminal history record of the
9 person within fourteen (14) working days of receiving a written
10 request from the board of education.

11 B. The Oklahoma State Bureau of Investigation shall provide the
12 national criminal history record check requested by the State Board
13 of Education within fourteen (14) working days from the receipt of
14 the request. The Bureau may contact the Federal Bureau of
15 Investigation to obtain the information requested.

16 C. The State Board of Education shall provide the information
17 received from the Oklahoma State Bureau of Investigation to the
18 board of education within fourteen (14) days from the receipt of the
19 information. The State Board of Education shall provide any follow-
20 up information received from the OSBI concerning a person for which
21 a national criminal history record check was requested to the
22 employing board of education.

23 D. For the purpose of this section:
24

1 1. "Board of education" includes both public and private boards
2 of education within or outside this state;

3 2. "Employing agency" means a political subdivision or law
4 enforcement agency in this state;

5 3. "Law enforcement officer" means a peace or police officer
6 who is certified by the Council on Law Enforcement Education and
7 Training;

8 4. "National criminal history record check" means a national
9 criminal history record check as defined in Section 150.9 of Title
10 74 of the Oklahoma Statutes; and

11 5. "Prospective employee" means an individual who has received
12 an offer of temporary employment by a school district pending the
13 results of the national criminal history record check.

14 E. Each public board of education within this state shall
15 promulgate a statement regarding the felony record search policy for
16 that school district. The policy may permit temporary employment of
17 prospective employees for a maximum of sixty (60) days pending
18 receipt of results of national criminal history record check
19 requests. The temporary employment of the prospective employee
20 shall terminate after sixty (60) days unless the school district
21 receives the results of the national criminal history record check.
22 The sixty-day temporary employment period shall begin on the first
23 day the prospective employee reports for duty at the employing
24 school district. Prospective employees shall be notified of the

1 requirement, the fee and the reimbursement policy when first
2 interviewed concerning employment. The school district's
3 reimbursement policy shall provide, at the minimum, that employees
4 shall be promptly reimbursed in full for the fee if employed by the
5 district at the time the national criminal history record check
6 request is made unless the person was employed pending receipt of
7 results as set forth above.

8 F. 1. Any person who has been employed as a full-time teacher
9 by a school district in this state and applies for employment as a
10 full-time teacher in another school district in this state may not
11 be required to have a national criminal history record check if the
12 teacher produces a copy of a national criminal history record check
13 completed within the preceding five (5) years and a letter from the
14 school district in which the teacher was employed stating the
15 teacher left in good standing.

16 2. For any person applying for employment as a substitute
17 teacher, a national criminal history record check shall be required
18 for the school year; provided however, a board of education may
19 choose whether to require a national criminal history record check
20 from a prospective substitute teacher who has been employed by the
21 school district in the last year. Any person applying for
22 employment as a substitute teacher in more than one school district
23 shall only be required to have one national criminal history record
24 check, and, upon the request of the substitute teacher, that record

1 check shall be sent to all other school districts in which the
2 substitute teacher is applying to teach.

3 3. Any person employed as a full-time teacher by a school
4 district in this state in the five (5) years immediately preceding
5 an application for employment as a substitute teacher may not be
6 required to have a national criminal history record check, if the
7 teacher produces a copy of a national criminal history record check
8 completed within the preceding five (5) years and a letter from the
9 school district in which the teacher was last employed stating the
10 teacher left in good standing.

11 4. Any person employed as a substitute teacher by a school
12 district in this state for a minimum of five (5) years immediately
13 preceding an application for employment as a full-time teacher in a
14 school district in this state may not be required to have a national
15 criminal history record check if the teacher produces a copy of a
16 national criminal history record check completed within the
17 preceding five (5) years and a letter from the school district in
18 which the teacher was employed as a substitute teacher stating the
19 teacher left in good standing.

20 5. Any person employed as a full-time teacher by a school
21 district in this state for ten (10) or more consecutive years
22 immediately preceding an application for employment as a substitute
23 teacher in the same school district may not be required to have a
24 national criminal history record check for as long as the person

1 remains employed for consecutive years by that school district as a
2 substitute teacher, if the teacher left full-time employment in good
3 standing. If the teacher applies for employment as a substitute
4 teacher in another school district, a national criminal history
5 record check shall be required.

6 G. The provisions of this section shall not apply to technology
7 center employees hired on a part-time or temporary basis for the
8 instruction of adult students only.

9 H. The provisions of this section shall not apply to law
10 enforcement officers who are employed by an employing agency at the
11 time of application for employment at a public school district.

12 I. Nothing in this section shall be construed to impose
13 liability on school districts, except in negligence, for employing
14 prospective employees within the sixty-day temporary employment
15 window pending the results of the national criminal history record
16 check.

17 SECTION 4. This act shall become effective July 1, 2016.

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

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