

1 ENGROSSED SENATE
2 BILL NO. 22

By: Floyd of the Senate

3 and

4 West (Tammy) of the House

5
6 An Act relating to boards of education; amending 70
7 O.S. 2011, Section 5-117, as last amended by Section
8 1, Chapter 149, O.S.L. 2018 (70 O.S. Supp. 2020,
9 Section 5-117), which relates to powers and duties of
10 boards of education; directing a lessee of certain
11 property be given the right of first refusal to
12 purchase the property; establishing terms and
13 conditions for such sale; providing an effective
14 date; and declaring an emergency.

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

16 SECTION 1. AMENDATORY 70 O.S. 2011, Section 5-117, as
17 last amended by Section 1, Chapter 149, O.S.L. 2018 (70 O.S. Supp.
18 2020, Section 5-117), is amended to read as follows:

19 Section 5-117. A. The board of education of each school
20 district shall have power to:

21 1. Elect its own officers; provided that the chair of the board
22 authorized in Section 5-107B of this title shall be elected by the
23 electors of the school district;

24 2. Make rules, not inconsistent with the law or rules of the
State Board of Education, governing the board and the school system

1 of the district, including converting all or part of a traditional
2 public school to a conversion school;

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

6 4. Designate the schools to be attended by the children of the
7 district;

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

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

21 7. Purchase, construct or rent, and operate and maintain,
22 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation
23 places and playgrounds, teacherages, school bus garages,
24 laboratories, administration buildings, and other schoolhouses and

1 school buildings, and acquire sites and equipment for the operation
2 of public schools or conversion schools;

3 8. a. Insure the school district or its employees against
4 any loss, damage or liability as defined by Sections
5 702 through 708 of Title 36 of the Oklahoma Statutes,
6 or other forms of insurance provided for in Title 36
7 of the Oklahoma Statutes.

8 b. Subject to the restrictions of liability in the
9 Governmental Tort Claims Act:

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

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

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

21 c. As used in this subsection, "employee" means any
22 person who has acted in behalf of a school district,
23 whether that person is acting on a permanent or
24 temporary basis with or without being compensated or

1 on a full-time or part-time basis. Employee also
2 includes all elected or appointed officers, members of
3 governing bodies of a school district, and persons
4 appointed, and other persons designated by a school
5 district to act in its behalf.

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

8 e. Any insurance authorized by law to be purchased,
9 obtained or provided by a school district may be
10 provided by:

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

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

18 (2) insurance in any insurer authorized to transact
19 insurance in this state,

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

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

1 f. Two or more school districts or public agencies, by
2 interlocal agreement made pursuant to the Interlocal
3 Cooperation Act, may provide insurance for any purpose
4 by any one or more of the methods specified in this
5 section. The pooling of self-insured reserves, claims
6 or losses among governments as authorized in this
7 section shall not be construed to be transacting
8 insurance nor otherwise subject to the provisions of
9 the laws of this state regulating insurance or
10 insurance companies, except as to the provisions of
11 Section 607.1 of Title 36 of the Oklahoma Statutes.
12 Two or more school districts may also be insured under
13 a master policy or contract of insurance. Premium
14 costs may be set individually for each school district
15 or apportioned among participating school districts as
16 provided by the master policy or contract;

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

22 10. Lease real or personal property to the state or any
23 political subdivision thereof or a not-for-profit entity operating
24 pursuant to Section 868 of Title 18 of the Oklahoma Statutes for

1 nominal cash consideration for so long as the use of the property by
2 the lessee substantially benefits, in whole or in part, the same
3 public served by the school district;

4 11. a. Dispose of personal or real property no longer needed
5 by the district by sale, exchange, lease, lease-
6 purchase, sale and partial lease back, or otherwise.
7 Real property shall be conveyed pursuant to a public
8 sale, public bid, or private sale; provided however,
9 unless otherwise prohibited by law, the board of
10 education of a consolidated or annexed school district
11 or any other school district may convey real property
12 to a local political subdivision or to an educational
13 institution within The Oklahoma State System of Higher
14 Education or to a housing authority formed pursuant to
15 the provisions of Section 1057 of Title 63 of the
16 Oklahoma Statutes without consideration. Prior to the
17 sale of any real property, the board of education
18 shall have the real property appraised. The appraisal
19 shall be confidential until the real property is sold.
20 When the real property is sold, the board of education
21 shall make the appraisal available for public
22 inspection. Prior to the conveyance of any real
23 property by private sale, the board of education shall
24 have offered the real property for sale by public sale

1 or public bid. Any conveyance of real property by
2 private sale to a nonprofit organization, association,
3 or corporation to be used for public purposes, unless
4 for exchange, shall contain a reversionary clause
5 which returns the real property to the board of
6 education upon the cessation of the use without profit
7 or for public purposes by the purchaser or the assigns
8 of the purchaser,

9 b. If a board of education makes the decision to dispose
10 of real or personal property that is leased at the
11 time the decision is made, whether such disposal is by
12 public sale, public bid or private sale, the lessee
13 shall have a right of first refusal to purchase the
14 property on the following terms and conditions:

15 (1) if a board of education receives a bid or offer
16 in a public sale, public bid or private sale for
17 any real or personal property that it desires to
18 accept, then it shall provide notice to the
19 lessee of the property. The notice shall include
20 the identity of the prospective purchaser of the
21 property, the terms and conditions of the
22 proposed sale and the purchase price to be paid
23 by the prospective purchaser, and
24

1 (2) the lessee shall have thirty (30) days after
2 receipt of the notice to inform the board of
3 education that it elects to purchase the property
4 on the same terms and conditions set forth in the
5 notice, in which event the board of education
6 shall convey the property to the lessee on all
7 the same terms and conditions set forth in the
8 notice; provided, however, that if any portion of
9 the consideration included in the purchase price
10 set forth in the notice is not in cash, then the
11 lessee shall be entitled to pay the fair market
12 value in cash of such noncash consideration;

13 12. Purchase necessary property, equipment, furniture, and
14 supplies necessary to maintain and operate an adequate school
15 system;

16 13. Incur all expenses, within the limitations provided for by
17 law, necessary to perform all powers granted by the provisions of
18 this section;

19 14. Contract with and fix the duties and compensation of
20 physicians, dentists, optometrists, nurses, attorneys,
21 superintendents, principals, teachers, bus drivers, janitors, and
22 other necessary employees of the district;

23 15. Establish a written policy for reimbursement of necessary
24 travel expenses of employees and members of the board. The policy

1 may include in-district travel from the site of employment
2 assignment which is necessary in the performance of employment
3 duties. The written policy shall specify procedures, contain
4 documentation requirements, and may include payment of meal expenses
5 during authorized travel on a per diem allowance basis rather than
6 itemized documentation;

7 16. Pay necessary travel expenses and other related expenses of
8 prospective employees for sponsored visits to the school district
9 pursuant to a written policy specifying procedures containing
10 documentation requirements equal to or greater than the requirements
11 specified by law for state employees in the State Travel
12 Reimbursement Act;

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

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

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

23 20. Enter into contractual agreements with the board of
24 trustees of a multicounty library system, as defined in Section 4-

1 103 of Title 65 of the Oklahoma Statutes, a city-county library
2 commission, as defined in Section 152 of Title 65 of the Oklahoma
3 Statutes, or a rural single county library system, as defined in
4 Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as
5 may be mutually agreed, except no district board of education may
6 enter into any agreement under which the library services for the
7 school would be provided at any site other than the school site or
8 which would result in library services that do not meet
9 accreditation standards as required by law or rule;

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

14 22. Prepare and distribute at the expense of the school
15 district any and all material which has the purpose of informing the
16 public about district activities;

17 23. Solicit and accept any gift, grant, or donation of money or
18 property for the use of the school district. Any gift, grant, or
19 donation of money may be deposited in the general fund or building
20 fund of the school district; and

21 24. Pay necessary meal and lodging expenses of school district
22 students and sponsors involved in authorized school-sponsored
23 cocurricular activities. The board of education shall establish a
24 written policy for reimbursement of necessary meal and lodging

1 expenses of school district students and sponsors. The written
2 policy shall specify procedures, contain documentation requirements,
3 and designate the funds from which reimbursement may be made.
4 Reimbursement may be made from the General Fund.

5 B. The board of education of any school district may rent real
6 and personal property, if such items are necessary for the operation
7 of the school, and pay the rental charges for the usage during any
8 fiscal year, or portion thereof, out of appropriations made and
9 approved for current expense purposes during the fiscal year. Any
10 rental contract extending beyond June 30 of the fiscal year shall be
11 void unless it contains provisions for mutual ratification of
12 renewal pursuant to the conditions provided for in this subsection.
13 It is the intent of this subsection to authorize boards of education
14 to enter into lease contracts but not to incur any obligation
15 against the school district in excess of the income and revenue
16 provided for such purposes for the fiscal year in which the lease
17 contract is operative. Any lease or lease-purchase agreement
18 entered into by any board of education shall state the purchase
19 price of real or personal property so leased. The lease or lease-
20 purchase shall not be extended so as to cause payment of more than
21 the original purchase price of the real or personal property, plus
22 interest not to exceed the legal rate. When the purchase price plus
23 interest has been paid, the property shall belong to the lessee and
24 the lessor shall deliver a deed or bill of sale to the property to

1 the lessee. When any real or personal property has been leased or
2 rented during any fiscal year pursuant to the provisions of any
3 contract which permits continuance of the rental for the remainder
4 of the fiscal year, the renting or leasing of the property shall be
5 continued for the remainder of the fiscal year unless the board of
6 education renting or leasing the same certifies by proper resolution
7 entered in the minutes of the board of education that the
8 continuance of the rental is unnecessary and contrary to the public
9 interest. Any lease-purchase agreement entered into shall include
10 the right of a school district to acquire buildings, equipment or
11 other facilities or discrete components thereof or improve school
12 sites through a lease-purchase agreement. A school district may use
13 proceeds derived from the sale of bonds as authorized by Section 26
14 of Article X of the Oklahoma Constitution to make lease-purchase
15 payments, including interest, under a lease-purchase agreement. For
16 purposes of this subsection, the term "acquired" as used in Section
17 26 of Article X of the Oklahoma Constitution shall mean the
18 possession, control, or power to dispose of personal or real
19 property.

20 C. The boards of education of two or more school districts may
21 enter into cooperative agreements and maintain joint programs
22 including, but not limited to, courses of instruction for
23 handicapped children, courses of instruction in music and other
24 subjects, practical instruction for trades and vocations, practical

1 instruction in driver training courses, and health programs
2 including visual care by persons legally licensed for such purpose,
3 without favoritism as to either profession. The revenues necessary
4 to operate a joint program approved in cooperative agreements,
5 whether from federal, state or local sources, including the
6 individual contributions of participating school districts, shall be
7 deposited into a fund separate from all other appropriated funds.
8 The beginning fund balance each year, combined with all actual
9 revenues, including collected and estimated revenues, must be
10 appropriated before being expended. Purchase orders shall be issued
11 against available appropriations and, once goods or services have
12 been received, either payable or nonpayable warrants shall be issued
13 in payment of all purchase orders. The fund shall be reported as a
14 separate appropriated fund in all the financial reports of the
15 school district which is chosen by the other school districts to
16 keep the accounting records of the joint program.

17 D. The boards of education of two or more school districts may
18 enter into a mutual contract or separate contracts with a
19 superintendent, administrator, or teacher or with a person to
20 provide support services, to serve as superintendent, administrator,
21 or teacher, as appropriately qualified, or to provide support
22 services, for each contracting district upon such terms and
23 conditions as the parties may agree. Nothing in this ~~act~~ section
24 shall be construed to authorize or require annexation or

1 consolidation of any school districts or the closing of any school
2 site except pursuant to law as set forth in Section 7-101 et seq. of
3 this title.

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

10 F. The board of education of each school district shall adopt
11 and maintain on file in the office of the superintendent of schools
12 appropriate personnel policy and sick leave guide. The guide shall
13 be made available to the public.

14 G. The board of education of any school district with an
15 average daily membership of thirty thousand (30,000) or more and all
16 or part of which school district is located in a county having more
17 than five hundred thousand (500,000) population according to the
18 latest Federal Decennial Census may contract with a public or
19 private nonsectarian entity for that entity to provide educational
20 and administrative services for the school district. The
21 educational services provided by a contracting entity may include
22 but are not limited to the delivery of instructional service in core
23 and noncore academic subjects to the students enrolled in the school
24 district at one or more school sites or parts of sites within the

1 district pursuant to the terms of an educational services contract.
2 All educational service providers and their employees and
3 representatives and all educational and administrative services
4 provided under an educational services contract shall be exempt from
5 all statutes and rules relating to schools, boards of education and
6 school districts to the same extent that a charter school is exempt
7 under the Oklahoma Charter Schools Act. For all purposes, including
8 but not limited to attendance, funding from all sources and
9 accountability, all students who are provided services by a
10 contracting entity pursuant to an educational services contract
11 shall at all times be and remain students of the school district.

12 SECTION 2. This act shall become effective July 1, 2021.

13 SECTION 3. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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1 Passed the Senate the 3rd day of March, 2021.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

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8 _____
9 Presiding Officer of the House
10 of Representatives