

1 **SENATE FLOOR VERSION**

2 February 23, 2021

3 **AS AMENDED**

4 SENATE BILL NO. 22

By: Floyd of the Senate

and

West (Tammy) of the House

7
8 **[powers and duties of boards of education -**
9 **effective date - emergency]**
10

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

12 SECTION 1. AMENDATORY 70 O.S. 2011, Section 5-117, as
13 last amended by Section 1, Chapter 149, O.S.L. 2018 (70 O.S. Supp.
14 2020, Section 5-117), is amended to read as follows:

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

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

20 2. Make rules, not inconsistent with the law or rules of the
21 State Board of Education, governing the board and the school system
22 of the district, including converting all or part of a traditional
23 public school to a conversion school;

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

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

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

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

19 7. Purchase, construct or rent, and operate and maintain,
20 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation
21 places and playgrounds, teacherages, school bus garages,
22 laboratories, administration buildings, and other schoolhouses and
23 school buildings, and acquire sites and equipment for the operation
24 of public schools or conversion schools;

- 1 8. a. Insure the school district or its employees against
2 any loss, damage or liability as defined by Sections
3 702 through 708 of Title 36 of the Oklahoma Statutes,
4 or other forms of insurance provided for in Title 36
5 of the Oklahoma Statutes.
- 6 b. Subject to the restrictions of liability in the
7 Governmental Tort Claims Act:
- 8 (1) insure the school district against all or any
9 part of any liability it may incur for death,
10 injury or disability of any person, or for damage
11 to property, either real or personal,
- 12 (2) insure any employee of the school district
13 against all or any part of the employee's
14 liability for injury or damage resulting from an
15 act or omission in the scope of employment, or
- 16 (3) insure against the expense of defending a claim
17 against the school district or its employee,
18 whether or not liability exists on such claim.
- 19 c. As used in this subsection, "employee" means any
20 person who has acted in behalf of a school district,
21 whether that person is acting on a permanent or
22 temporary basis with or without being compensated or
23 on a full-time or part-time basis. Employee also
24 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

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, except as to the provisions of
8 Section 607.1 of Title 36 of the Oklahoma Statutes.
9 Two or more school districts may also be insured under
10 a master policy or contract of insurance. Premium
11 costs may be set individually for each school district
12 or apportioned among participating school districts as
13 provided by the master policy or contract;

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

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

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

1 for exchange, shall contain a reversionary clause
2 which returns the real property to the board of
3 education upon the cessation of the use without profit
4 or for public purposes by the purchaser or the assigns
5 of the purchaser,

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

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

21 (2) the **lessee** shall have thirty (30) days after
22 receipt of the notice to inform the board of
23 education that it elects to purchase the property
24 on the same terms and conditions set forth in the

1 notice, in which event the board of education
2 shall convey the property to the **lessee** on all
3 the same terms and conditions set forth in the
4 notice; provided, however, that if any portion of
5 the consideration included in the purchase price
6 set forth in the notice is not in cash, then the
7 **lessee** shall be entitled to pay the fair market
8 value in cash of such noncash consideration;

9 12. Purchase necessary property, equipment, furniture, and
10 supplies necessary to maintain and operate an adequate school
11 system;

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

15 14. Contract with and fix the duties and compensation of
16 physicians, dentists, optometrists, nurses, attorneys,
17 superintendents, principals, teachers, bus drivers, janitors, and
18 other necessary employees of the district;

19 15. Establish a written policy for reimbursement of necessary
20 travel expenses of employees and members of the board. The policy
21 may include in-district travel from the site of employment
22 assignment which is necessary in the performance of employment
23 duties. The written policy shall specify procedures, contain
24 documentation requirements, and may include payment of meal expenses

1 during authorized travel on a per diem allowance basis rather than
2 itemized documentation;

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

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

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

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

19 20. Enter into contractual agreements with the board of
20 trustees of a multicounty library system, as defined in Section 4-
21 103 of Title 65 of the Oklahoma Statutes, a city-county library
22 commission, as defined in Section 152 of Title 65 of the Oklahoma
23 Statutes, or a rural single county library system, as defined in
24 Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as

1 may be mutually agreed, except no district board of education may
2 enter into any agreement under which the library services for the
3 school would be provided at any site other than the school site or
4 which would result in library services that do not meet
5 accreditation standards as required by law or rule;

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

10 22. Prepare and distribute at the expense of the school
11 district any and all material which has the purpose of informing the
12 public about district activities;

13 23. Solicit and accept any gift, grant, or donation of money or
14 property for the use of the school district. Any gift, grant, or
15 donation of money may be deposited in the general fund or building
16 fund of the school district; and

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

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

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

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

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

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

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

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

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

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

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
15 February 23, 2021 - DO PASS AS AMENDED
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