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February 27, 2024

SENATE BILL NO. 1849

By: Thompson (Kristen) and
Paxton

[cooperative purchasing agreements - interlocal
cooperative agreements - effective date]

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

SECTION 1. AMENDATORY 61 O.S. 2021, Section 139, is amended to read as follows:

Section 139. A. In addition to any authority to enter an agreement pursuant to the Interlocal Cooperation Act, any school district, including a technology school district, may either participate in, sponsor, conduct or administer a cooperative purchasing agreement for the acquisition of any commodities or services with one or more public agencies in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public agencies and open-ended state public procurement contracts. No school district, including a technology school district, shall enter into an agreement under the provisions of this section that exceeds One Million Dollars (\$1,000,000.00).

1 B. Any local public procurement unit may either participate in,
2 sponsor, conduct, or administer a cooperative or piggybacking
3 purchasing agreement for the acquisition of any commodities or
4 services, ~~including construction~~ excluding any services that require
5 labor, with one ~~(1)~~ or more public procurement units or external
6 procurement units in accordance with an agreement entered into
7 between the participants. Such cooperative purchasing may include,
8 but is not limited to, joint or multiparty contracts between public
9 procurement units and open-ended state public procurement unit
10 contracts which are made available to local public procurement
11 units. Purchases made in accordance with this subsection by a local
12 public procurement unit shall be required to satisfy any procurement
13 regulation, including ~~The~~ the Oklahoma Central Purchasing Act, the
14 Public Competitive Bidding Act of 1974, the Oklahoma State Finance
15 Act, related administrative rules and federal regulations that may
16 apply due to the federal source of the funding for the anticipated
17 purchase.

18 C. For purposes of this section, the following definitions
19 apply:

20 1. "Local public procurement unit" shall mean, inter alia, any
21 county, city, town, state agency, and any other subdivision of the
22 state or public unit or agency thereof;

23 2. "External procurement unit" shall mean any buying
24 organization in the United States not located in this state which,

1 if located in this state, would qualify as a public procurement
2 unit; and

3 3. "Cooperative or piggybacking purchasing agreement" shall
4 mean an agreement between a local public procurement unit and
5 another local public procurement unit or an external procurement
6 unit to authorize the use of a contract procured by one of the
7 parties to the agreement to benefit the other party to the
8 agreement. This term shall also mean an agreement that provides
9 access to a product or service that is lower in price than a
10 comparable product or service that is available through the usage of
11 a statewide, multistate or multigovernmental contract issued by the
12 state Purchasing Division.

13 D. Nothing in this section shall supersede the obligation of a
14 state agency to adhere to rules regarding statewide contracts issued
15 by the state Purchasing Division. Neither shall any provision of
16 this section be construed to waive the obligation of a state agency
17 to utilize a mandatory purchasing contract as designated by the
18 State Purchasing Director.

19 SECTION 2. AMENDATORY 70 O.S. 2021, Section 5-117b, is
20 amended to read as follows:

21 Section 5-117b. A. The boards of education of any two or more
22 school districts may enter into an interlocal cooperative agreement
23 for the purpose of jointly and comparatively performing any of the
24 services, duties, functions, activities, obligations, or

1 responsibilities which are authorized or required by law to be
2 performed by school districts of this state. Two or more school
3 districts may enter into an interlocal cooperative agreement for the
4 purpose of forming buying pools and purchasing cooperatives. As
5 used in this section, "interlocal cooperative agreement" means an
6 agreement which is entered into by the boards of education of two or
7 more school districts pursuant to the provisions of this section.
8 This section shall not prohibit school districts from entering into
9 cooperative agreements authorized under Section 5-117 of this title
10 or interfere with existing cooperative agreements between school
11 districts. If the boards of education of any two or more school
12 districts enter into an interlocal cooperative agreement the
13 following conditions may apply:

14 1. An interlocal cooperative agreement shall establish a board
15 of directors which shall be responsible for administering the joint
16 or cooperative undertaking. The agreement shall specify the
17 organization, terms, ~~and~~ composition of, and manner of appointment
18 to^r the board of directors and shall make provision for
19 restructuring or terminating the board upon partial or complete
20 termination of the agreement. The board of directors shall be
21 selected by the board of education of each contracting school
22 district and may include but not be limited to a board member,
23 administrator, or teacher from each contracting school district.
24 Vacancies in the membership of the board of directors shall be

1 filled within thirty (30) days from the date of the vacancy in the
2 manner specified in the agreement;

3 2. An interlocal cooperative agreement which is optional to
4 school districts and shall be effective only after it is approved by
5 the State Board of Education and the board of directors may be
6 designated as a local education agency for some or all state and
7 federal application, reporting, and auditing procedures. An
8 interlocal cooperative board of directors that has been designated
9 as a local education agency shall comply with state and federal law
10 and the regulations of the State Board of Education;

11 3. An interlocal cooperative agreement shall be subject to
12 change or termination by a recommendation of the State Board of
13 Education;

14 4. The duration of an interlocal cooperative agreement for
15 joint or cooperative action in performing any of the services,
16 duties, functions, activities, obligations, or responsibilities,
17 other than the provision of special education services, which are
18 authorized or required by law of school districts in this state,
19 shall be for a term ~~of~~ not less than one (1) year. Notice of intent
20 of a school district to withdraw from the cooperative agreement ~~must~~
21 shall be given no later than March 15 for the ensuing school year;

22 5. An interlocal cooperative agreement shall specify the method
23 or methods to be employed for disposing of property upon partial or
24 complete termination of the agreement;

1 6. Within the limitations provided by law, an interlocal
2 cooperative agreement may be changed or modified by majority consent
3 of the interlocal cooperative board of directors;

4 7. Except as otherwise specifically provided in this section,
5 any powers, privileges, or authority exercised or capable of being
6 exercised by any school district of this state, or by any board of
7 education thereof, may be jointly exercised pursuant to the
8 provisions of an interlocal cooperative agreement. Federal grant
9 money, applied for on behalf of a school district, may be disbursed
10 directly to ~~a~~ an interlocal cooperative with the consent of the
11 school districts comprising the interlocal cooperative. No powers,
12 privileges, or authority with respect to the levy and collection of
13 taxes or the application for or receipt of State Aid formula money,
14 or the issuance of bonds shall be created or effectuated for joint
15 exercise pursuant to the provisions of an interlocal cooperative
16 agreement; and

17 8. Payments from the general fund of each school district which
18 enters into any interlocal cooperative agreement for the purpose of
19 financing the joint or cooperative undertaking provided for by the
20 agreement shall be operating expenses.

21 B. An interlocal cooperative agreement entered into pursuant to
22 the provisions of this section shall be subject to the monetary
23 limitation provided for in Section 139 of Title 61 of the Oklahoma
24 Statutes.

1 C. Nothing contained in this section shall be construed to
2 abrogate, interfere with, impair, qualify, or affect in any manner
3 the exercise and enjoyment of all the powers, privileges, and
4 authority conferred upon school districts and boards of education by
5 law, except that boards of education and school districts are
6 required to comply with the provisions of this section when entering
7 into an interlocal cooperative agreement that meets the definition
8 of an interlocal cooperative agreement.

9 SECTION 3. This act shall become effective November 1, 2024.

10 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
11 February 27, 2024 - DO PASS AS AMENDED BY CS
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