

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1174

By: Crain

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5
6 AS INTRODUCED

7 An Act relating to public schools; amending 70 O.S.
8 2011, Section 5-117, as last amended by Section 1,
9 Chapter 166, O.S.L. 2015 (70 O.S. Supp. 2015, Section
10 5-117), which relates to powers and duties of boards
11 of education; adding reference to certain purchasing
12 plans; requiring boards of education to adopt central
13 purchasing plans for purchase of goods and services
14 by certain date; stating exception; requiring
15 explanation for certain purchases; stating
16 procedures; authorizing the Office of Management and
17 Enterprise Services Central Purchasing Division to
18 assist boards of education in preparing plans;
19 providing for codification; and declaring an
20 emergency.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5-117c of Title 70, unless there
24 is created a duplication in numbering, reads as follows:

A. Effective July 1, 2017, each board of education of any
public school district, as defined in Section 1-106 of Title 70 of
the Oklahoma Statutes, shall be required to establish a plan of
competitive bidding which is substantially in compliance with the
provisions of the Oklahoma Central Purchasing Act pursuant to

1 Section 85.1 et seq. of Title 74 of the Oklahoma Statutes, for all
2 goods and services purchased by the school district with a value
3 exceeding Five Thousand Dollars (\$5,000.00).

4 B. Plans adopted pursuant to this act shall have similar
5 requirements to those contained in the Oklahoma Central Purchasing
6 Act for the purchase of goods and services purchased by school
7 districts including the requirements to utilize the State Use
8 Program, the Oklahoma Correctional Industries Program and use of
9 statewide contracts as such options are available and appropriate.

10 C. 1. When a board of education makes a purchase of goods or
11 services, issues an invitation to bid or makes a request for
12 proposal based on a plan as required herein, such invitation or bid
13 proposal shall fully outline each criteria the school district will
14 use to determine the winning bid.

15 2. A school district shall be required to explain in writing
16 their reasons for purchasing goods or awarding contracts for
17 services from any supplier or bidder which was not the lowest
18 responsible bidder based on the criteria contained in the invitation
19 to bid or request for proposal.

20 3. Such explanation shall be presented and approved by the
21 School Board, following public notice published in accordance with
22 requirements of the Oklahoma Open Meetings Act, and with sufficient
23 information identifying the requirements of the bid and the
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1 difference between the amount of the lowest bid and the accepted
2 bid.

3 D. The provisions of this section shall not apply to employment
4 contracts with teachers, employees or other staff employed by the
5 school district, or professional services.

6 E. The Office of Management and Enterprise Services Central
7 Purchasing Division may assist any public school district in
8 developing a central purchasing system as required by this act.

9 SECTION 2. AMENDATORY 70 O.S. 2011, Section 5-117, as
10 last amended by Section 1, Chapter 166, O.S.L. 2015 (70 O.S. Supp.
11 2015, Section 5-117), is amended to read as follows:

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

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

17 2. Make rules, not inconsistent with the law or rules of the
18 State Board of Education, governing the board and the school system
19 of the district;

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

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

1 5. Provide and operate, when deemed advisable, cafeterias or
2 other eating accommodations, thrift banks or other facilities for
3 the teaching and practice of thrift and economy, bookstores, print
4 shops, and vocational and other shops;

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

14 7. Purchase, construct or rent, and operate and maintain,
15 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation
16 places and playgrounds, teacherages, school bus garages,
17 laboratories, administration buildings, and other schoolhouses and
18 school buildings, and acquire sites and equipment therefor;

19 8. a. Insure the school district or its employees against
20 any loss, damage or liability as defined by Sections
21 702 through 708 of Title 36 of the Oklahoma Statutes,
22 or other forms of insurance provided for in Title 36
23 of the Oklahoma Statutes.

1 b. Subject to the restrictions of liability in the
2 Governmental Tort Claims Act:

3 (1) insure the school district against all or any
4 part of any liability it may incur for death,
5 injury or disability of any person, or for damage
6 to property, either real or personal,

7 (2) insure any employee of the school district
8 against all or any part of the employee's
9 liability for injury or damage resulting from an
10 act or omission in the scope of employment, or

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

14 c. As used in this subsection, "employee" means any
15 person who has acted in behalf of a school district,
16 whether that person is acting on a permanent or
17 temporary basis with or without being compensated or
18 on a full-time or part-time basis. Employee also
19 includes all elected or appointed officers, members of
20 governing bodies of a school district, and persons
21 appointed, and other persons designated by a school
22 district to act in its behalf.

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

1 e. Any insurance authorized by law to be purchased,
2 obtained or provided by a school district may be
3 provided by:

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

7 Any self-insurance reserve fund shall be
8 nonfiscal and shall not be considered in
9 computing any levy when the school district makes
10 its annual estimate for needed appropriations,

11 (2) insurance in any insurer authorized to transact
12 insurance in this state,

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

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

17 f. Two or more school districts or public agencies, by
18 interlocal agreement made pursuant to the Interlocal
19 Cooperation Act, may provide insurance for any purpose
20 by any one or more of the methods specified in this
21 section. The pooling of self-insured reserves, claims
22 or losses among governments as authorized in this
23 section shall not be construed to be transacting
24 insurance nor otherwise subject to the provisions of

1 the laws of this state regulating insurance or
2 insurance companies, except as to the provisions of
3 Section 607.1 of Title 36 of the Oklahoma Statutes.
4 Two or more school districts may also be insured under
5 a master policy or contract of insurance. Premium
6 costs may be set individually for each school district
7 or apportioned among participating school districts as
8 provided by the master policy or contract;

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

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

20 11. Dispose of personal or real property no longer needed by
21 the district by sale, exchange, lease, lease-purchase, sale and
22 partial lease back, or otherwise. Real property shall be conveyed
23 pursuant to a public sale, public bid, or private sale; provided
24 however, unless otherwise prohibited by law, the board of education

1 of a consolidated or annexed school district or any other school
2 district may convey real property to a local political subdivision
3 or to an educational institution within The Oklahoma State System of
4 Higher Education without consideration. Prior to the sale of any
5 real property, the board of education shall have the real property
6 appraised. The appraisal shall be confidential until the real
7 property is sold. When the real property is sold, the board of
8 education shall make the appraisal available for public inspection.
9 Prior to the conveyance of any real property by private sale, the
10 board of education shall have offered the real property for sale by
11 public sale or public bid. Any conveyance of real property by
12 private sale to a nonprofit organization, association, or
13 corporation to be used for public purposes, unless for exchange,
14 shall contain a reversionary clause which returns the real property
15 to the board of education upon the cessation of the use without
16 profit or for public purposes by the purchaser or the assigns of the
17 purchaser;

18 12. Purchase necessary property, equipment, furniture, and
19 supplies necessary to maintain and operate an adequate school
20 system, in accordance with a central purchasing plan established by
21 the board pursuant to the provisions of Section 1 of this act;

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

1 14. Contract with and fix the duties and compensation of
2 physicians, dentists, optometrists, nurses, attorneys,
3 superintendents, principals, teachers, bus drivers, janitors, and
4 other necessary employees of the district;

5 15. Establish a written policy for reimbursement of necessary
6 travel expenses of employees and members of the board. The policy
7 may include in-district travel from the site of employment
8 assignment which is necessary in the performance of employment
9 duties. The written policy shall specify procedures, contain
10 documentation requirements, and may include payment of meal expenses
11 during authorized travel on a per diem allowance basis rather than
12 itemized documentation;

13 16. Pay necessary travel expenses and other related expenses of
14 prospective employees for sponsored visits to the school district
15 pursuant to a written policy specifying procedures containing
16 documentation requirements equal to or greater than the requirements
17 specified by law for state employees in the State Travel
18 Reimbursement Act;

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

20 18. Exercise sole control over all the schools and property of
21 the district, subject to other provisions of the Oklahoma School
22 Code;

23 19. Allow district-owned school buses to be used for
24 transportation of students from other districts or educational

1 institutions while within the district on educational tours. This
2 shall not restrict the authority of the board to authorize any other
3 use of such buses which may now be permitted by law or rule of the
4 State Board of Education;

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

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

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

23 23. Solicit and accept any gift, grant, or donation of money or
24 property for the use of the school district. Any gift, grant, or

1 donation of money may be deposited in the general fund or building
2 fund of the school district; and

3 24. Pay necessary meal and lodging expenses of school district
4 students and sponsors involved in authorized school-sponsored
5 cocurricular activities. The board of education shall establish a
6 written policy for reimbursement of necessary meal and lodging
7 expenses of school district students and sponsors. The written
8 policy shall specify procedures, contain documentation requirements,
9 and designate the funds from which reimbursement may be made.
10 Reimbursement may be made from the General Fund.

11 B. The board of education of any school district may rent real
12 and personal property, if such items are necessary for the operation
13 of the school, and pay the rental charges for the usage during any
14 fiscal year, or portion thereof, out of appropriations made and
15 approved for current expense purposes during the fiscal year. Any
16 rental contract extending beyond June 30 of the fiscal year shall be
17 void unless it contains provisions for mutual ratification of
18 renewal pursuant to the conditions provided for in this subsection.
19 It is the intent of this subsection to authorize boards of education
20 to enter into lease contracts but not to incur any obligation
21 against the school district in excess of the income and revenue
22 provided for such purposes for the fiscal year in which the lease
23 contract is operative. Any lease or lease-purchase agreement
24 entered into by any board of education shall state the purchase

1 price of real or personal property so leased. The lease or lease-
2 purchase shall not be extended so as to cause payment of more than
3 the original purchase price of the real or personal property, plus
4 interest not to exceed the legal rate. When the purchase price plus
5 interest has been paid, the property shall belong to the lessee and
6 the lessor shall deliver a deed or bill of sale to the property to
7 the lessee. When any real or personal property has been leased or
8 rented during any fiscal year pursuant to the provisions of any
9 contract which permits continuance of the rental for the remainder
10 of the fiscal year, the renting or leasing of the property shall be
11 continued for the remainder of the fiscal year unless the board of
12 education renting or leasing the same certifies by proper resolution
13 entered in the minutes of the board of education that the
14 continuance of the rental is unnecessary and contrary to the public
15 interest. Any lease-purchase agreement entered into shall include
16 the right of a school district to acquire buildings, equipment or
17 other facilities or discrete components thereof or improve school
18 sites through a lease-purchase agreement. A school district may use
19 proceeds derived from the sale of bonds as authorized by Section 26
20 of Article X of the Oklahoma Constitution to make lease-purchase
21 payments, including interest, under a lease-purchase agreement. For
22 purposes of this subsection, the term "acquired" as used in Section
23 26 of Article X of the Oklahoma Constitution shall mean the

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1 possession, control, or power to dispose of personal or real
2 property.

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

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1 D. The boards of education of two or more school districts may
2 enter into a mutual contract or separate contracts with a
3 superintendent, administrator, or teacher or with a person to
4 provide support services, to serve as superintendent, administrator,
5 or teacher, as appropriately qualified, or to provide support
6 services, for each contracting district upon such terms and
7 conditions as the parties may agree. Nothing in this act shall be
8 construed to authorize or require annexation or consolidation of any
9 school districts or the closing of any school site except pursuant
10 to law as set forth in Section 7-101 et seq. of this title.

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

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

21 G. The board of education of any school district with an
22 average daily membership of thirty thousand (30,000) or more and all
23 or part of which school district is located in a county having more
24 than five hundred thousand (500,000) population according to the

1 latest Federal Decennial Census may contract with a public or
2 private nonsectarian entity for that entity to provide educational
3 and administrative services for the school district. The
4 educational services provided by a contracting entity may include
5 but are not limited to the delivery of instructional service in core
6 and noncore academic subjects to the students enrolled in the school
7 district at one or more school sites or parts of sites within the
8 district pursuant to the terms of an educational services contract.
9 All educational service providers and their employees and
10 representatives and all educational and administrative services
11 provided under an educational services contract shall be exempt from
12 all statutes and rules relating to schools, boards of education and
13 school districts to the same extent that a charter school is exempt
14 under the Oklahoma Charter Schools Act. For all purposes, including
15 but not limited to attendance, funding from all sources and
16 accountability, all students who are provided services by a
17 contracting entity pursuant to an educational services contract
18 shall at all times be and remain students of the school district.

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

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