

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 738

By: Montgomery

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7 AS INTRODUCED

8 An Act relating to the Interlocal Cooperation
9 Agreement; declaring certain entities organized
10 pursuant to certain agreement be subject to insurance
11 examination; amending 70 O.S. 2011, Section 5-117, as
12 last amended by Section 1, Chapter 149, O.S.L. 2018
13 (70 O.S. Supp. 2020, Section 5-117), which relates to
14 power and duties of boards of education; requiring
15 certain entities organized by interlocal agreement be
16 subject to examination by the Insurance Commissioner;
17 providing for codification; and providing an
18 effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1009 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:

23 Any entity organized by an interlocal agreement between two or
24 more school districts or public agencies to provide insurance for
any purpose shall be subject to examination by the Insurance
Commissioner in the same manner and as often as licensed insurance
companies are examined pursuant to Sections 309.1 through 309.7 of

1 Title 36 of the Oklahoma Statutes, if the entity has received
2 premiums within a twelve-month period.

3 SECTION 2. AMENDATORY 70 O.S. 2011, Section 5-117, as
4 last amended by Section 1, Chapter 149, O.S.L. 2018 (70 O.S. Supp.
5 2020, Section 5-117), is amended to read as follows:

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

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

11 2. Make rules, not inconsistent with the law or rules of the
12 State Board of Education, governing the board and the school system
13 of the district, including converting all or part of a traditional
14 public school to a conversion school;

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

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

20 5. Provide and operate, when deemed advisable, cafeterias or
21 other eating accommodations, thrift banks or other facilities for
22 the teaching and practice of thrift and economy, bookstores, print
23 shops, and vocational and other shops;

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

10 7. Purchase, construct or rent, and operate and maintain,
11 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation
12 places and playgrounds, teacherages, school bus garages,
13 laboratories, administration buildings, and other schoolhouses and
14 school buildings, and acquire sites and equipment for the operation
15 of public schools or conversion schools;

16 8. a. Insure the school district or its employees against
17 any loss, damage or liability as defined by Sections
18 702 through 708 of Title 36 of the Oklahoma Statutes,
19 or other forms of insurance provided for in Title 36
20 of the Oklahoma Statutes.

21 b. Subject to the restrictions of liability in the
22 Governmental Tort Claims Act:

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

3 (2) insure any employee of the school district
4 against all or any part of the employee's
5 liability for injury or damage resulting from an
6 act or omission in the scope of employment, or

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

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

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

21 e. Any insurance authorized by law to be purchased,
22 obtained or provided by a school district may be
23 provided by:

- 1 (1) self-insurance, which may be, but is not required
2 to be, funded by appropriations to establish or
3 maintain reserves for self-insurance purposes.
4 Any self-insurance reserve fund shall be
5 nonfiscal and shall not be considered in
6 computing any levy when the school district makes
7 its annual estimate for needed appropriations,
8 (2) insurance in any insurer authorized to transact
9 insurance in this state,
10 (3) insurance secured in accordance with any other
11 method provided by law, or
12 (4) any combination of insurance authorized by this
13 section.

14 f. (1) Two or more school districts or public agencies,
15 by interlocal agreement made pursuant to the
16 Interlocal Cooperation Act, may provide insurance
17 for any purpose by any one or more of the methods
18 specified in this section. The entity created by
19 the interlocal agreement shall be subject to
20 examination by the Insurance Commissioner in the
21 same manner and as often as licensed insurance
22 companies are examined pursuant to Sections 309.1
23 through 309.7 of Title 36 of the Oklahoma
24 Statutes, if it has received premiums for

1 insurance it provides for any purpose within a
2 twelve-month period.

3 (2) The pooling of self-insured reserves, claims or
4 losses among governments as authorized in this
5 section shall not be construed to be transacting
6 insurance nor otherwise subject to the provisions
7 of the laws of this state regulating insurance or
8 insurance companies, except as to the provisions
9 of Section 607.1 of Title 36 of the Oklahoma
10 Statutes. Two or more school districts may also
11 be insured under a master policy or contract of
12 insurance. Premium costs may be set individually
13 for each school district or apportioned among
14 participating school districts as provided by the
15 master policy or contract;

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

21 10. Lease real or personal property to the state or any
22 political subdivision thereof or a not-for-profit entity operating
23 pursuant to Section 868 of Title 18 of the Oklahoma Statutes for
24 nominal cash consideration for so long as the use of the property by

1 the lessee substantially benefits, in whole or in part, the same
2 public served by the school district;

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

3 12. Purchase necessary property, equipment, furniture, and
4 supplies necessary to maintain and operate an adequate school
5 system;

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

9 14. Contract with and fix the duties and compensation of
10 physicians, dentists, optometrists, nurses, attorneys,
11 superintendents, principals, teachers, bus drivers, janitors, and
12 other necessary employees of the district;

13 15. Establish a written policy for reimbursement of necessary
14 travel expenses of employees and members of the board. The policy
15 may include in-district travel from the site of employment
16 assignment which is necessary in the performance of employment
17 duties. The written policy shall specify procedures, contain
18 documentation requirements, and may include payment of meal expenses
19 during authorized travel on a per diem allowance basis rather than
20 itemized documentation;

21 16. Pay necessary travel expenses and other related expenses of
22 prospective employees for sponsored visits to the school district
23 pursuant to a written policy specifying procedures containing
24 documentation requirements equal to or greater than the requirements

1 specified by law for state employees in the State Travel
2 Reimbursement Act;

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

4 18. Exercise sole control over all the schools and property of
5 the district, subject to other provisions of the Oklahoma School
6 Code;

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

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

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

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

8 23. Solicit and accept any gift, grant, or donation of money or
9 property for the use of the school district. Any gift, grant, or
10 donation of money may be deposited in the general fund or building
11 fund of the school district; and

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

20 B. The board of education of any school district may rent real
21 and personal property, if such items are necessary for the operation
22 of the school, and pay the rental charges for the usage during any
23 fiscal year, or portion thereof, out of appropriations made and
24 approved for current expense purposes during the fiscal year. Any

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

1 the right of a school district to acquire buildings, equipment or
2 other facilities or discrete components thereof or improve school
3 sites through a lease-purchase agreement. A school district may use
4 proceeds derived from the sale of bonds as authorized by Section 26
5 of Article X of the Oklahoma Constitution to make lease-purchase
6 payments, including interest, under a lease-purchase agreement. For
7 purposes of this subsection, the term "acquired" as used in Section
8 26 of Article X of the Oklahoma Constitution shall mean the
9 possession, control, or power to dispose of personal or real
10 property.

11 C. The boards of education of two or more school districts may
12 enter into cooperative agreements and maintain joint programs
13 including, but not limited to, courses of instruction for
14 handicapped children, courses of instruction in music and other
15 subjects, practical instruction for trades and vocations, practical
16 instruction in driver training courses, and health programs
17 including visual care by persons legally licensed for such purpose,
18 without favoritism as to either profession. The revenues necessary
19 to operate a joint program approved in cooperative agreements,
20 whether from federal, state or local sources, including the
21 individual contributions of participating school districts, shall be
22 deposited into a fund separate from all other appropriated funds.
23 The beginning fund balance each year, combined with all actual
24 revenues, including collected and estimated revenues, must be

1 appropriated before being expended. Purchase orders shall be issued
2 against available appropriations and, once goods or services have
3 been received, either payable or nonpayable warrants shall be issued
4 in payment of all purchase orders. The fund shall be reported as a
5 separate appropriated fund in all the financial reports of the
6 school district which is chosen by the other school districts to
7 keep the accounting records of the joint program.

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

18 E. Any school district may operate or maintain a school or
19 schools on any military reservation which is within the boundaries
20 of the school district or which is adjacent to the school district,
21 and provide the instruction in the school or schools to children of
22 personnel on the military reservation and, in doing so, shall
23 conform to all federal laws and requirements.

1 F. The board of education of each school district shall adopt
2 and maintain on file in the office of the superintendent of schools
3 appropriate personnel policy and sick leave guide. The guide shall
4 be made available to the public.

5 G. The board of education of any school district with an
6 average daily membership of thirty thousand (30,000) or more and all
7 or part of which school district is located in a county having more
8 than five hundred thousand (500,000) population according to the
9 latest Federal Decennial Census may contract with a public or
10 private nonsectarian entity for that entity to provide educational
11 and administrative services for the school district. The
12 educational services provided by a contracting entity may include
13 but are not limited to the delivery of instructional service in core
14 and noncore academic subjects to the students enrolled in the school
15 district at one or more school sites or parts of sites within the
16 district pursuant to the terms of an educational services contract.
17 All educational service providers and their employees and
18 representatives and all educational and administrative services
19 provided under an educational services contract shall be exempt from
20 all statutes and rules relating to schools, boards of education and
21 school districts to the same extent that a charter school is exempt
22 under the Oklahoma Charter Schools Act. For all purposes, including
23 but not limited to attendance, funding from all sources and
24 accountability, all students who are provided services by a

1 contracting entity pursuant to an educational services contract
2 shall at all times be and remain students of the school district.

3 SECTION 3. This act shall become effective November 1, 2021.

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