

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1849

By: Thompson (Kristen) and
Paxton

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7 COMMITTEE SUBSTITUTE

8 An Act relating to cooperative purchasing agreements;
9 amending 61 O.S. 2021, Section 139, which relates to
10 the authority to enter cooperative purchasing
11 agreements; establishing monetary limit for certain
12 agreement; removing construction services from
13 inclusion in certain agreement; directing certain
14 services be excluded from certain agreement; updating
15 statutory reference; amending 70 O.S. 2021, Section
16 5-117b, which relates to interlocal cooperative
17 agreements between boards of education; subjecting
18 agreements to certain monetary limitation; and
19 providing an effective date.

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

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

23 Section 139. A. In addition to any authority to enter an
24 agreement pursuant to the Interlocal Cooperation Act, any school
25 district, including a technology school district, may either
26 participate in, sponsor, conduct or administer a cooperative
27 purchasing agreement for the acquisition of any commodities or
28 services with one or more public agencies in accordance with an

1 agreement entered into between the participants. Such cooperative
2 purchasing may include, but is not limited to, joint or multiparty
3 contracts between public agencies and open-ended state public
4 procurement contracts. No school district, including a technology
5 school district, shall enter into an agreement under the provisions
6 of this section that exceeds One Million Dollars (\$1,000,000.00).

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

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1 C. For purposes of this section, the following definitions
2 apply:

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

6 2. "External procurement unit" shall mean any buying
7 organization in the United States not located in this state which,
8 if located in this state, would qualify as a public procurement
9 unit; and

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

20 D. Nothing in this section shall supersede the obligation of a
21 state agency to adhere to rules regarding statewide contracts issued
22 by the state Purchasing Division. Neither shall any provision of
23 this section be construed to waive the obligation of a state agency
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1 to utilize a mandatory purchasing contract as designated by the
2 State Purchasing Director.

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

5 Section 5-117b. A. The boards of education of any two or more
6 school districts may enter into an interlocal cooperative agreement
7 for the purpose of jointly and comparatively performing any of the
8 services, duties, functions, activities, obligations, or
9 responsibilities which are authorized or required by law to be
10 performed by school districts of this state. Two or more school
11 districts may enter into an interlocal cooperative agreement for the
12 purpose of forming buying pools and purchasing cooperatives. As
13 used in this section, "interlocal cooperative agreement" means an
14 agreement which is entered into by the boards of education of two or
15 more school districts pursuant to the provisions of this section.
16 This section shall not prohibit school districts from entering into
17 cooperative agreements authorized under Section 5-117 of this title
18 or interfere with existing cooperative agreements between school
19 districts. If the boards of education of any two or more school
20 districts enter into an interlocal cooperative agreement the
21 following conditions may apply:

22 1. An interlocal cooperative agreement shall establish a board
23 of directors which shall be responsible for administering the joint
24 or cooperative undertaking. The agreement shall specify the

1 organization, terms, ~~and~~ composition of, and manner of appointment
2 to, the board of directors and shall make provision for
3 restructuring or terminating the board upon partial or complete
4 termination of the agreement. The board of directors shall be
5 selected by the board of education of each contracting school
6 district and may include but not be limited to a board member,
7 administrator, or teacher from each contracting school district.
8 Vacancies in the membership of the board of directors shall be
9 filled within thirty (30) days from the date of the vacancy in the
10 manner specified in the agreement;

11 2. An interlocal cooperative agreement which is optional to
12 school districts and shall be effective only after it is approved by
13 the State Board of Education and the board of directors may be
14 designated as a local education agency for some or all state and
15 federal application, reporting, and auditing procedures. An
16 interlocal cooperative board of directors that has been designated
17 as a local education agency shall comply with state and federal law
18 and the regulations of the State Board of Education;

19 3. An interlocal cooperative agreement shall be subject to
20 change or termination by a recommendation of the State Board of
21 Education;

22 4. The duration of an interlocal cooperative agreement for
23 joint or cooperative action in performing any of the services,
24 duties, functions, activities, obligations, or responsibilities,

1 other than the provision of special education services, which are
2 authorized or required by law of school districts in this state,
3 shall be for a term ~~of~~ not less than one (1) year. Notice of intent
4 of a school district to withdraw from the cooperative agreement ~~must~~
5 shall be given no later than March 15 for the ensuing school year;

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

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

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

1 8. Payments from the general fund of each school district which
2 enters into any interlocal cooperative agreement for the purpose of
3 financing the joint or cooperative undertaking provided for by the
4 agreement shall be operating expenses.

5 B. An interlocal cooperative agreement entered into pursuant to
6 the provisions of this section shall be subject to the monetary
7 limitation provided for in Section 139 of Title 61 of the Oklahoma
8 Statutes.

9 C. Nothing contained in this section shall be construed to
10 abrogate, interfere with, impair, qualify, or affect in any manner
11 the exercise and enjoyment of all the powers, privileges, and
12 authority conferred upon school districts and boards of education by
13 law, except that boards of education and school districts are
14 required to comply with the provisions of this section when entering
15 into an interlocal cooperative agreement that meets the definition
16 of an interlocal cooperative agreement.

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

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