



Oklahoma
State
Senate

Legislative Brief

June 2011

Common Education

Issue Background

Common education saw a number of significant changes in the 2011 legislative session. The most significant changes included reforming the State Board of Education, eliminating trial de novo for career teachers, eliminating social promotion, providing grades for individual schools, and changes to National Criminal History Record Checks for prospective school employees. In addition to these reforms the 2011 Legislature also focused on reducing administrative costs and expanding charter schools.

State Board of Education

Reforming the State Board of Education was the high profile piece of legislation to be enacted in the area of common education. The changes came about out of concerns over the division of power between the appointed State Board of Education and the elected Superintendent of Public Instruction. The State Board of Education is a constitutionally created body charged with the duty to supervise the public school system. The Board is composed of seven members, six are appointed by the Governor and one, the Superintendent of Public Instruction, is a statewide elected official who serves as the Chair of the Board. The reforms enacted in HB 2139 and SB 435 divide the powers and duties between the Superintendent and the Board. HB 2139 gives the Superintendent the power to control and direct the State Department of Education while the Board retains the supervision of the public school system. The powers granted to the Superintendent include: giving advice and making recommendations to the Board, adopting policies for the Department, control over organization, administration and personnel within the Department, coordination of all divisions of the Department, and interpretation of policy and rules set by the Board. The Board retains the power to adopt policies and provide for adoption of curricula, and authority regarding licensure and certification of instructors, accreditation of public schools and various other administrative duties. HB 2139 transfers many of the powers and duties previously vested in the Board to the Superintendent. SB 435 reforms the membership of the Board by providing for all current positions on the Board to become vacant and directing the Governor to fill those vacancies. Board members will serve at the pleasure of the Governor for terms of four years subject to automatic expiration upon the assumption of office by each Governor. In summary the membership of the State Board of Education will be reformed to be coterminous with the Governor, and the State Superintendent of Public Instruction will be granted control over the State Department of Education.

Social Promotion

Social promotion is the practice of promoting students on to the next grade level in spite of low performance in order to keep a student in the same class as their social peers. SB 346 seeks to end the practice of social promotion by requiring students who score at a level of unsatisfactory on the reading portion of the third grade criterion-referenced test to be retained. In addition to requiring the retention of underperforming students, SB 346 requires that schools provide programs and additional help to struggling students beginning in the first grade to prevent retention. The retention requirement is subject to several good cause exemptions including students with an IEP, limited English-proficient students, and alternative assessment or portfolio demonstration of proficiency. SB 346 also requires each school district beginning in 2011-2012 to establish a Reading Enhancement and Acceleration Development (READ) Initiative focused on preventing retention. In summary SB 346 requires the retention of students who are unable to read proficiently by the third grade subject to certain exemptions and provides additional assistance and programs to prevent retention.

Trial De Novo

Trial de novo is a legal term for a “new trial” by a different tribunal. In the context of common education in Oklahoma, it refers to the right to appeal to the district court the decision of the local school board to terminate a career teacher. Termination of a career teacher requires a recommendation by the superintendent to terminate the teacher followed by a trial-like hearing before the local school board. Prior to the passage of HB 1380, if the school board elected to terminate a teacher, the teacher would have the right to appeal the school board's decision to the district court and request a new trial, and if the judge were to overturn the decision of the school board, the teacher would be reinstated with back pay. HB 1380 eliminates the right to appeal the decision of the school board to the district court, the decision of the school board becomes the final action and a teacher is terminated upon the election by the school board.

National Criminal History Record Checks (NCHRC)

The 2010 Legislature enacted a provision which required all prospective school district employees to be subject to a NCHRC prior to employment with the school. The implementation of the law created unforeseen consequences and the 2011 Legislature enacted a number of provisions to remedy issues caused by enactment of the law. SB 12 exempts part-time career tech teachers of adult-only courses from having to have an NCHRC prior to teaching a course at a career tech. SB 59 exempts applicants who have been full-time teachers in the preceding 5 years and are applying for a substitute teaching position if they produce a copy of their NCHRC and a letter of good standing. SB 252 allows school districts to waive the NCHRC requirement for substitute teachers if the applicant was a substitute teacher with the school district in the previous year. HB 1418 allows for the temporary employment of a prospective employee for up to 60 days pending the results of a NCHRC.

Misc. Bills

Common education had numerous other bills in the 2011 legislative session. A few of the other noteworthy bills include SB 260 which delayed the requirement to offer full-day kindergarten to the 2013-2014 school year. HB 1456 established a system to give schools a letter grade and deliver the information to parents. HB 2115 permits the use of school consolidation funds to be used to supplement the superintendent salary for districts who voluntarily share a superintendent.

Common Education Appropriations

The State Board of Education's appropriation was reduced by \$97,397,804 which results in a 4.1% cut for the 2012 fiscal year.

The agency plans to deal with this cut by a combination of prorating the cut across the board to most programs and assessing the efficacy and efficiency of all programs. There was also a supplemental for the Ad Valorem reimbursement fund in the amount of \$10,000,000 for FY 2011. Of the legislation passed during the 2011 session, most will have a minimal fiscal impact. However, SB 346 which deals with kindergarten through third grade reading aptitude and banning social promotion may cost up to \$6,000,000. This high cost is due to the need to restart funding for a reading program since the previous amount used for a reading sufficiency program was zeroed out by the State Board for FY 2011.

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