

# Organization of Rural Oklahoma Schools

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## Legislative Report

**By: Megan Benn, OROS Legislative Consultant**

The first month of this legislative session is now behind us and with that comes a smaller list of critical education bills to track! While many troublesome bills are still out there, we did see some either fail in committee or were not heard by the deadline. We also have several bills alive still that we support and could be beneficial to our school districts. Unlike many of my updates I'm going to focus on the positives first and leave the negatives until the end of the article.

First, as the prices at the pump continue to go up so do our state coffers. Of the \$106 million increase in the February estimate compared to the Board of Equalizations initial estimate, \$64.3 million was attributable to expectations of higher oil revenues. The Tax Commission is now forecasting an average FY '12 price of \$90.77 per barrel and increased production to go along with that cost. Gross production taxes in January, 2011 were 64.1% above the prior year and 23% above the estimate. Overall our FY'11 revenue collections are 5.4% or \$127.4 million above the estimate. So while we are still dealing with a shortfall, at least things are finally beginning to look up.

There are several bills that we are pushing or supporting in some way. We have worked closely with CCOSA and ORES on bills to keep administrative costs in check and also allow for appropriate coding of administrative duties. SB 664 by Fields and Holland and HB 1914 by Quinn and Fields lowers the percentages for administrative services based on school size and also allows for Superintendents who perform non administrative or teaching duties to code up to 40% of their salary to other administrative functions. The bills that were filed that would have forced school or administrative consolidation have not received hearings as of yet. We all know that they could still reappear at some point in the process but are hopeful that we will not see them again. In addition to these bills dealing with administrative costs there are two other bills that we are following on this topic. Representative Hickman's HB 2115 is a carrot rather than a stick approach

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to consolidation. In his bill, when 2 or more school districts go together to hire one superintendent, 50% of his or her salary may be paid out of the School Consolidation Fund for 3 years. Representative Jason Nelson’s HB 1746 requires that at least 65% of school districts total spending go to direct instructional activities. Representative Nelson has voiced that he is open to making sure that administrative and instructional costs are appropriately defined but we are not sure how this bill will end up at this time.

Other bills that have made their way through the committee process are

- HB 1565 by Rep. Todd Thomsen which will delay ACE for two years.
- HB 1418 by Rep. Casey and Sen. Justice which allows schools to use private vendors to perform background checks
- HB 1422 by Rep. Casey and Sen. Fields. This bill moves the start date of health insurance plans for education employees to a July 1 start date.
- SB 1 by Sen. Ford and Rep. Denney and HB 1380 by Rep. Holland which eliminates the option of a Trial de Novo from Teacher due process.
- SB 163 by Sen. Anderson and Rep. Osborn allows schools in a cooperative to purchase construction projects through the Interlocal Cooperation Act.

So now is the time to briefly look at a few of the bills we have some concerns about that are still alive and well at the capitol. There are two bills in the House HJR 1001 and HJR 1002 and one in the Senate SJR 5 which deal with capping or freezing local Property tax increases. In addition to the Special Needs scholarship bill which became law last year, we have attempts in both the House and the Senate to implement a tax credit/ voucher program in the state. HB 2133 by Speaker of the House Steele and SB 969 by Senator Newberry both resemble bills that we have been able to hold off in other years that provide tax credits to individuals who contribute to a 501c3 organization that gives scholarships to current public school students so they may attend a private school in the state. There are also several bills out there dealing with the retirement system which we are closely watching.

As always, if you hear of a bill that you have not seen on the OROS website that you think we should be aware of please do not hesitate to call. Since we are now past one committee deadline, the number of bills that we are updating on the website has decreased and will continue to do so throughout the session. Now that both chambers are going to be spending the next few weeks doing floor work, you can expect to start receiving emails asking for you to call your legislator to either support or oppose certain pieces of legislation. Your contact really does help, so please keep an eye out for these updates.

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**Attorney Talk**

**By: Terri Thomas**

**HERE WE GO AGAIN: RIF FOR NEXT YEAR**

It’s that time again. Time to be thinking about your staffing needs and how they match up with your budget for next year. Just as with last year, we are likely facing budget cuts again for the coming year. If you are looking at a RIF, I would recommend that you take out your teacher RIF policy—and your support RIF policy, if you have one—and familiarize yourself with your district’s particular nuances on the topic. Below are some of the more common FAQs I get with respect to RIFs. Please do not hesitate to call me if your question isn’t addressed here.

**Are we allowed to RIF teachers?** Yes, so long as you follow the statutory notification deadlines for contract renewal/nonrenewal and so long as you give the affected teachers due process. The statutory notification date for certified employees is "prior to the first Monday in June," which this year is June 6<sup>th</sup>. This means that any teacher on a non-temporary contract being considered for non-reemployment (RIF or otherwise) has to receive notice of your intentions BEFORE June 6<sup>th</sup>. Once June 6<sup>th</sup> rolls around, any teacher on a non-temporary contract who hasn't heard otherwise is considered yours for another year.

### **What about support employees?**

With respect to support employees, the RIF issue on its face is much simpler. You do not have the same hard and unbreakable deadlines imposed on you by continuing contract law that you have with teachers. State law even presupposes layoffs of support employees at any time for lack of funds or lack of work. There have already been quite a few mid-year RIFs of support employees this year, in fact. You are, however, dealing with a person's livelihood and will no doubt impose a moral obligation on yourself to give these people the most timely notice of your intentions as you can reasonably give.

**What kind of due process must be given?** With respect to certified RIFs, the Teacher Due Process Act does not apply. This means that you do not have to show "cause" (for probationary teachers) or one of the statutory grounds for termination (for career teachers). This does *not* mean that you may simply tell a teacher he/she is not going to be rehired next year and send the teacher packing. You must still provide appropriate notice and opportunity for a pretermination hearing just as you would in a non-RIF termination situation. Because the Teacher Due Process Act is non-applicable, however, the teacher does not have the right to a trial *de novo* if the teacher is unhappy about the RIF.

Support employees are given the requisite notice and opportunity for a hearing, just as in situations where they are being terminated for cause.

**How can we possibly make a decision whether to RIF or not to RIF for next school year, when we don't have any idea about the upcoming financial situation?** Therein lies the problem. If you're hopeful you can maintain current staffing levels, but you still have a fair amount of uncertainty (because it seems like every week you are told more is going to be cut from your allocation), your district could implement "preventive" RIFs to cover itself.

"Preventive RIF" is a term of art. In reality, the district is implementing a regular RIF, but at the same time it lets the affected staff members know that if the money is there when all is said and done, some or all of the reduced staff will be called back to work. The risk, of course, is that those people will find other jobs and will not be available if called back. On the other side of the coin, at least in the case of teachers, the district has made sure that it is not contractually bound to pay someone a year's salary it may not be able to afford to pay.

**How do we decide whom to RIF?** There is a hierarchy to this process. The Oklahoma Supreme Court has held that tenured certified faculty must be given preference over non-tenured certified faculty. For example, let's say you have two 6<sup>th</sup> grade science classes taught by two different teachers.

One of the teachers is probationary and one is career. If you have to eliminate one of those positions, you are legally obligated to retain the career teacher over the probationary teacher. That part is pretty straightforward.

However, the RIF hierarchy can get tricky. For instance, let's say you are eliminating your art program. That position happens to be occupied by a career teacher. If the career teacher from the eliminated art program is certified to teach a subject—let's say physics—occupied by a probationary teacher in a position not subject to RIF, you are legally obligated to provide "reasonable accommodation" to the career teacher. This generally means that you must transfer the career teacher from the art program to the probationary teacher's physics position and let the probationary teacher go—even if the career teacher has never taught physics.

There are other tedious aspects as well. Suppose, for example, you have to RIF one of your two first grade teacher positions. Both of those positions are occupied by career teachers with the same amount of seniority within the district. Then what do you do? In that situation, your RIF policy will generally address other factors to be considered, such as level/type of certification, evaluations, academic degree status, administrative recommendation, etc. This is where the importance of being familiar with your policy plays a key role.

For support employees, there is no legal requirement that a school district must have a RIF policy. If you do have one, then you must follow it. If you don't have a policy to follow, then your decision should be based on solid, logical and evenly-applied criteria. Straight seniority is probably the easiest and most justifiable criteria (the unions are most favorable to this type of classification), but it's not always going to allow you to retain the most productive employees.

**When should we get started?** Immediately! Time is of the essence if you want to implement your RIFs the right way and as seamlessly as possible. The more tricky your situation, the longer the process will take. Remember, for certified staff, you must have this all worked out before the first Monday in June (i.e., before June 6<sup>th</sup>) or else you will have contracts automatically renewing and you will be bound for another year to the status quo.

**Do the certified staff RIF hearings have to be finished before the first Monday in June?** No. The hearings themselves don't have to be completed before the deadline—just the formal recommendation to the board and notification to the teacher of your intentions. Also remember that if the board has "tabled" a teacher's rehire decision while you look at the possibility of RIF, you still have to notify that teacher before the first Monday in June if you intend to pursue the RIF. Otherwise you'll have the automatic rehire on that day.

**Should we hire a lawyer?** In most cases I would recommend that you at least consult with your school attorney prior to making any decisions. The attorney will be able to review your policy, take a look at your plans and help you to make sure you and your board are fully aware of the appropriate steps for implementation. In addition, your attorney will be able to represent you at any due process hearings where you may need assistance. And yes, I do handle RIFs—both from the standpoint of representing you as your school attorney and also from the standpoint of being a hearing examiner if you already have a school attorney and your board president does not wish to preside over the hearings. If you have any questions or wish to retain my services, please give me a call. Good luck!

## Associate Members

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2200 McKown Drive  
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HC 79 Box 459  
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Kellogg & Sovereign Consulting  
1101 Stadium Drive  
Ada, OK 74820  
580-332-1444

The Learning System  
3501 NW 63, Ste. 115  
Oklahoma City, OK 73116  
800-7363658

Chas. W. Carroll, P.A.  
114 E. Broadway, Ste 805  
Enid, OK 73701  
580-234-5468

Municipal Accounting Systems  
P.O. Box 1325  
Shawnee, OK 74802  
405-275-4349

OK Association for Pupil Transportation  
P.O. Box 1626  
Guthrie, OK 73044  
405-514-4606

Twotrees Technologies  
7701 E. Kellogg Drive, STE 610  
Wichita, KS 67207  
918-270-7122

Government Capitol Corp.  
345 Miron Drive  
Southlake, TX 76092  
800-883-1199

Southern Financial Group, Inc.  
301 West Main Street, Ste 520  
Ardmore, OK 73401  
580-490-9094

Lierman Graduate Services/Josten's  
5829 N.W. 40<sup>th</sup> Street  
Oklahoma City, OK 73122  
405-789-2052

Service & Funding Group, Inc.  
301 W Main, Ste 510  
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Barlow Ed. & Manag. Services  
2801 N. Lincoln Blvd  
Oklahoma City, OK 73127  
405-495-1911

Okla. School Assurance Group  
P.O. Box 18858  
Oklahoma City, OK 73154  
800-699-5905

ARBO Enterprises, Inc  
5017 N. Rockwell  
Bethany, OK 73008  
405-787-3902

ADPC  
P.O. Box 592  
Ponca City, OK 74602  
580-762-6376

Blunck Studios, Inc.  
228 West Main  
Moore, OK 73160  
405-794-7748

Professional Oklahoma Educators  
P.O. Box 667  
Norman, OK 73070  
405-321-3175

Treat's Solutions, Inc.  
300 E. Arlington  
Ada, OK 74820  
580-332-8861

J & J Educational Services  
30742 S. Lona Valley  
Kinta, OK 74552  
918-469-2656

Boynton Williams & Assoc's., Inc  
900-36th Ave. NW, Ste 100  
Norman, OK 73072-4187  
405-329-0423

BRB Roofing & Mfg.  
1726 N. Green, Ste 900  
Purcell, OK 73080  
405-527-2726

American Bus Sales  
8 S. Atlanta, Ste B  
Owasso, OK 74055  
866-574-9970

Sexton & Sexton School Supplies  
P.O. Box 346  
Apache, OK 73006  
1-800-657-7273

Pettyjohn Financial Group, Inc.  
5174 Silo Road  
Durant, OK 74701  
580-920-4572

Midwest Bus Sales  
P.O. Box 338  
El Reno, OK 73036  
405-262-1044

American Fidelity Assurance  
7510 N. Broadway Ext. Ste 202  
Oklahoma City, OK 73116  
405-416-8810

Document Imaging Solutions  
P.O. Box 470646  
Tulsa, OK 74147  
918-664-8800

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P.O. Box 7  
Caney, OK 74533  
580-889-3713

The Interlocal Purchasing System  
P.O. Box 1894  
Mt. Pleasant, TX 75456  
866-839-8477

Parsons Commercial Roofing, Inc  
P.O. Box 21835  
Waco, TX 76702  
254-881-1733

OASIS  
4002 Eagle Crest Drive  
Muskogee, OK 74401  
918-465-7001

Ross Transportation, Inc  
2500 South Meridian Avenue  
Oklahoma City, OK 73108  
405-681-6691

Primary Insurance for Education  
P.O. Box 190  
Paris, TX 75461  
903-783-1400

Pro Presenters, Inc  
P.O. Box 721320  
Norman, OK 73070  
405-364-5400

FES LLC  
1300 O Street  
Lincoln, NE 68508  
800-850-8397

Romaine Companies  
132 Tomahawk Blvd  
Cadiz, KY 42211  
270-522-7818

Burggraf Disaster Restoration  
400 South Rockford Ave.  
Tulsa, OK 74120  
918-584-3737

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**Oklahoma Schools Property and Casualty**  
**By: Lee Roy Pettyjohn**

**It's that time of year again to start thinking about your Property Casualty Insurance.**

**With more and more budget cuts, why wouldn't you consider OSPCC this year?**

**Oklahoma Schools Property and Casualty, an OROS endorsed program, is growing rapidly** and helping Districts all across Oklahoma. Last year, OSPCC saved many school districts *thousands* of much needed dollars by lowering their premiums, while still providing them with the same coverage they have had in the past. This coverage included Property, Auto, Professional and Board Liability. Remember in OSPCC's Program, Tail Insurance is not needed. We cover your district 100% with unlimited retroactive Tail Insurance. Again, this means you are **COVERED** for any unknown acts...**UNLIMITED!**

*Many schools are already requesting quotes for this year, so be sure to get your request in **EARLY**.*

To request a quote, please send the below information by **fax** to **Steve Neece** at **903-784-2895**, or **email** your information to **Lee Roy Pettyjohn** at **leeroy@redriverok.com**. Please remember, that the quicker we receive your district's information, the faster we will be able to respond with your quote. These quotes will be provided without any cost or obligation to your district. Since the OSPCC is an Inter Local Coop, we can provide you with a side by side comparison, simply by your request.

Again, **PLEASE**, don't miss this opportunity to help cut costs for your district.

For more questions, please feel free to call, Lee Roy Pettyjohn at 580-920-4572.

The following list of information is all that is required to provide a best value quote for your district:

**Certificate of Coverage** from your current year policies (also provide previous years if available), including the invoice or pricing page.

**Property Schedule** from you most recent property appraisal. (This lists each building with construction type, year built, square footage, replacement cost, and content replacement cost)

**Vehicle Schedule** that includes year, make, model, last 4 VIN, and purchase cost.

**Detail loss runs**, by line of coverage / by coverage term, for the previous five (5) years.

Please send your Request for Proposal packet to:

Oklahoma Schools Property Casualty Cooperative  
5030 N. May Avenue, Box 106  
Oklahoma City, OK 73112  
Or fax to: (903) 784-2895

Below is a board resolution to join the coop. Joining the coop is free and has no obligations on the districts part. You could put this item on the same agenda as the one when you consider the quotes or you could put it on an earlier agenda.

**Resolution approving  
Interlocal Cooperation Agreement Establishing and/or joining the  
Oklahoma Schools Property and Casualty Cooperative**

Pursuant to and as authorized by 74 O.S. & 1004 and 70 O.S. & 5-117, the Board Education of \_\_\_\_\_, by this resolution, hereby approves that Interlocal Cooperation Agreement dated February 11, 2010, entitled "Agreement Establishing the Oklahoma Schools Property and Casualty Cooperative." The Superintendent is authorized to take such steps as are necessary on behalf of the School District to enter into and carry out the Agreement, including participating as a Member of The Board of Trustees, if elected/selected.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Board President

\_\_\_\_\_  
Typed name of Board President

\_\_\_\_\_  
Signature of Superintendent of Schools

\_\_\_\_\_  
Typed name of Superintendent

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**OROS Calendar  
OROS Board of Directors Meeting  
April 6, 2011  
OSSAA Building  
Oklahoma City, OK  
10:00 A.M.**

**OROS Board of Directors Meeting  
May 11, 2011  
OSSAA Building  
Oklahoma City, OK  
10:00 A.M.**

**Scholarship Postmark Deadline extended to March 15, 2011**