

# Organization of Rural Oklahoma Schools

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## 2011 Legislative Session Wrap-up

By: Megan Benn, OROS Legislative Consultant

The 2011 legislative session is now behind us and again we are looking at difficult budget cuts for schools and the impacts of new reforms passed. Below I will attempt to summarize the budget and some of the key pieces of legislation that will impact your schools and administrations next year.

As you all are by now aware, Common Education received a 4.1% or about \$97 million cut for the 2011-2012 school year. The legislature did also approve a Supplemental funding bill which will bring \$10 million into common education for the purpose of filling the \$18 million hole in the Ad Valorem Reimbursement fund for the current fiscal year. The remaining \$8 million will have to be made up in the next fiscal year. The legislature did not pass a spending limits bill with the funding bill so the State Department of Education has discretion on how to spend the money not included in the formula. Some of the items that Superintendent Baressi will be deciding the funding levels for will be the Flexible Benefit Allowance, Teachers Retirement contribution, ACE Remediation, and Alternative Education.

### Key pieces of Legislation Summary:

HB 1380 – Eliminates a tenured teacher’s right to a trial de novo after a board votes to terminate employment.

HJR 1002 – Sends to a vote of the people the opportunity to lower the cap on the growth of property tax from 5% to 3%. This question will be on the Ballot in November 2012.

SB 2139 – This bill transfers the authority to administer the Department of Education from the State Board of Education to the State Superintendent of Public Instruction.

SB 435 – Changes the current composition of the State Board of Education, effective 90 days after adjournment. Now each new Governor will appoint new State Board members from each Congressional

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District and one member at large.

SB 664 – Allows school superintendents to code up to 40% of their salary for the performance of other duties.

SB 969 – Provides a tax credit to individuals and corporations who make donations to a scholarship granting organization that awards scholarships to students attending private schools. This bill also provides tax credits to those who make donations to educational improvement grant organizations. These grants would go to rural schools who qualify for these educational improvement grants.

HB 1418 – Requires districts to terminate provisional employees after 60 days if no OSBI results are received. The bill also protects districts from liability when hiring employees pending results of the OSBI background check.

HB 1456 – Grading Schools Bill. This bill requires the State Board of Education to create a system to grade all school districts and sites on an A-F scale. These grades will be determined based on student test scores, gains in Math and Reading, improvement of lowest quartile of students, and whole school improvement.

HB 1744 – Changes the administration of the Special Needs Scholarship program from the district to the State Department of Education. The bill also creates a task force to study a statewide Special Education Co-op.

HB 2115 – Allows districts share a Superintendent and use the Consolidation Assistance Fund to pay up to 50% of the Superintendent’s salary for 3 years to total not more than \$150,000 during the 3 year period.

SB 260 – Delays the statewide full-day kindergarten mandate for 2 years.

SB 346 – For students entering 1st grade for the 2011-2012 school year, third grade students who score unsatisfactory on the reading portion of the CRT will be retained unless an exemption applies. The bill requires districts to remediate these students.

SB 891 – School Districts will be required to pay the full 16.5 contribution to OTRS for retired teachers beginning in July 2012.

SB 252 – Changes requirements for substitute teachers’ background checks to one national search and requires that districts share those results.

HB 2132 – Eliminates the automatic COLA for retirees

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**ATTORNEY TALK**

**By Terri Thomas**

**DEATH OF DE NOVO**

Probably the biggest thing to come out of this year’s legislative session, in terms of matters I deal with on behalf of my clients, is the elimination of the trial *de novo* option for career teachers whose employment has been terminated by the board. Most all of you know the basic implications of what this means for your district, but it might be helpful to break it down and analyze it a bit further.

First off, what it *was*: Previously, if a career teacher was terminated (or non-reemployed) by action of the board of education at a due process hearing, state law allowed the teacher—within ten days of receipt of notification of the board’s decision and notice of further due process rights—to petition the district court for what is called a trial *de novo*, which basically means "fresh new trial." This process, conducted in the same fashion as a civil lawsuit, was a non-jury trial before a judge in the county where the school district is located. The school district had the responsibility of proving to the judge, by a preponderance of the evidence, that the school’s decision to terminate the teacher was warranted. In the meantime, during the period between when

the board of education voted to terminate or non-renew the teacher's employment, and when the judge made a decision at the trial *de novo*, the teacher was required to be paid his/her full salary and benefits.

Clearly there were problems—from the perspective of the school district—with this arrangement. The most glaring issue was the sheer expense of the process. An attorney would have to be retained to handle the litigation from start to finish. The terminated teacher would continue to be paid, even though he/she wasn't on the job. More than likely, a replacement teacher would have to be hired, or else an existing teacher would have to be paid extra for covering the classes. The judge in the matter could also, at his/her discretion, order attorney fees to be paid to the prevailing party. Depending on how long this process was drawn out (and don't forget that the judge's decision here could also be appealed by either the board or the teacher), the costs could easily be in the hundreds of thousands of dollars.

Non-monetary problems also plagued the process. Districts legitimately questioned whether a judge, who didn't routinely handle school-specific matters, was the best finder of fact in these cases. Why shouldn't the local board's decision be final? Proponents of trial *de novo* pointed to varying levels of administrative or board bias as a major reason for the need for an additional arbiter. To some extent, the argument had merit. However, with or without a statutory right to a new trial, an employee alleging unfair treatment at the board level could always file an EEOC claim, or initiate a wrongful termination lawsuit even without EEOC backing.

Districts were left with lots of reasons to *not* go this route, and few reasons to pursue it, absent an urgent need for action. Cost, time, uncertainty and hassle were sure to be factored into the decision whether to go after tenured teachers whose performance was less than stellar. Did some districts keep "bad" teachers—or pay them to leave quietly—for fear of the ramifications of trial *de novo*? Probably. Did it happen a lot? Possibly, but there's no way to quantify it with absolute certainty.

So what happens now, now that *de novo* has been removed from the process? Will there be—as opponents of the law change speculated—a statewide surge in tenured-teacher firings? Doubtful, in my opinion. Why? In my experience, the matter of a tenured teacher's performance problems frequently didn't even get to a *board-level* due process hearing, not because of the threat of additional litigation, but primarily because of the lack of appropriate documentation of deficiencies, and the limitations of the statutory plan for improvement process.

With respect to documentation, it is common for administrators to have an informal sit-down with a teacher about something the administrator sees as potentially problematic. Most administrators don't want to formally (i.e., in writing) reprimand a teacher right off the bat because they feel like a seemingly-small infraction is best handled informally without making too big of a deal of it. In a large number of cases, that approach is best and the situation rectifies itself for good. Unfortunately, the downside to such a practice generally doesn't manifest itself until it is in hindsight—when the administrator is lacking any documentation of a problem that has gone on for quite some time. The plan for improvement then becomes the first and only "official" record of what may be an ongoing issue.

Once placed on a plan for improvement, the teacher may very well be expert at playing the system and therefore keeping his/her job. The teacher may know exactly what the law requires—a plan for improvement prior to any recommendation to terminate or non-reemploy for conduct related to teaching performance—and may also know how to improve the deficiencies well enough to be rehired for another school year. Once the

teacher improves, and if there isn't any additional documentation (see prior paragraph) to show a pattern, or a history, of similar deficiencies, the district is hard-pressed to move forward with a termination recommendation that can be convincingly argued by the administration. Many times it ends there, never going before the board, and *de novo* is a non-issue.

Preparation is essentially the key to whether the death of *de novo* will serve to benefit your district. If you are amply prepared for the board-level hearing, then you are likely to see a dramatic and positive change in your ability to cull ineffective teachers from your roster once the law change has taken effect.

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**2011-2012 OROS Officers and Directors**

The officers and directors of OROS are gearing up for another great year for the organization. The new officers and directors are in place and plans are being made at this time for the coming events of the organization. Jim Lamer, Superintendent of Garber, will be the new president of OROS and brings a good deal of experience to the office of president. He has served many years on the OROS Board of Directors as well as serving on various other boards that involve the rural schools of Oklahoma. We look forward to his tenure as president of our organization. All the new officers and directors are as follows:

**2010-2011 Officers & Directors**

<b>President</b>	<b>Jim Lamer</b>
<b>President-Elect</b>	<b>Tony Potts</b>
<b>Treasurer</b>	<b>Bob Bush</b>
<b>Past President</b>	<b>Phillip Ratcliff</b>
<b>Executive Director</b>	<b>Perry Willis</b>
<b>OROS Attorney</b>	<b>Terri Thomas</b>

**BOARD OF DIRECTORS**

**Southeast**

<b>Jay McAdams</b>	<b>Kingston</b>	<b>1 yr term</b>
<b>Terry Grissom</b>	<b>Asher</b>	<b>2 yr term</b>
<b>Tony Potts</b>	<b>Stringtown</b>	<b>3 yr term</b>

**Southwest**

<b>Kevin McKinley</b>	<b>Bray-Doyle</b>	<b>1 yr term</b>
<b>Donny Darrow</b>	<b>Elmore City-Pernell</b>	<b>2 yr term</b>
<b>Robert Trammell</b>	<b>Snyder</b>	<b>3 yr term</b>

**Northeast**

<b>Max Tanner</b>	<b>Central</b>	<b>1 yr term</b>
<b>Jerry Needham</b>	<b>Oktaha</b>	<b>2 yr term</b>
<b>Lawrence Barnes</b>	<b>Vian</b>	<b>3 yr term</b>

Northwest

Eddie Thomas	Laverne	1 yr term
Scott Kinsey	Beaver	2 yr term
Jeff Thompson	Sharon-Mutual	3 yr term

At-Large

Steve Shiever	Crescent	1 yr term
Eddie Coleman	Kiamichi Tech Center.	1 yr term
David Lassiter	Allen	1 yr term

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**Associate Members**

Stephen McDonald & Associates  
2200 McKown Drive  
Norman, OK 73072  
405-329-0123

Mass Group Marketing  
HC 79 Box 459  
Hugo, OK 74743  
580-326-2705

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

Kerry Patten, CPA  
2101 N. Willow Ave.  
Broken Arrow, OK 74012  
918-250-8838

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

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

Justin Walker, CPA  
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

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

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

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

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

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

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

Service & Funding Group, Inc.  
301 W Main, Ste 510  
Ardmore, OK 73401  
580-490-9094

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

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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### Perry Willis Comments

Invoices have gone out for next year's membership renewal, so don't forget to renew your OROS membership. Our membership has declined some the past two years, but we are still a viable organization with membership hoovering around the 360 mark. It is very important to renew your membership in order to keep a strong voice for rural education. It could be more important now than ever to keep this organization strong as talk of consolidation and combining administrative positions get stronger each year. Our numbers have been an important part in our voice at the Capitol. If our numbers go down, we will lose our strength. I would encourage each of you to find a way to renew your membership and even encourage your non-member neighbors to join OROS next year. If you take advantage of the benefits offered by OROS over a school year, you will receive more than your membership dues. The school board policy book alone is worth more than your annual dues. The services of an attorney for our members has been another very successful endeavor of OROS and our increased presence at the Capitol during the legislative session has given better coverage of committee meetings and other legislative functions. We can remain a strong voice for rural education, if we will stay united in our efforts. If you have lost or misplaced your invoice and need another one, just give me a call or e-mail me at [perryw@hughes.net](mailto:perryw@hughes.net) and I will send you another one.

We just completed our third year of e-mailing the newsletter and it seems to have worked well with our member districts. Everything I heard was positive. We had better results of getting the e-mail addresses of our superintendents this year but still have some problem when superintendents change school districts. Be sure you fill out the information requested on the membership form that accompanied the invoice.

The OROS school board policy updates are in the process of being revised or developed as the case may be by our attorney. As soon as she has them completed, they will be sent by e-mail to our member districts. It takes some time after each legislative session to determine what policy changes need to be made as a result of new or amended laws. At times, a complete new policy must be developed to meet the demand of the law.

The OROS Fall Conference will be held on October 27-28 and will again be held at the Clarion Meridian Convention Center in Oklahoma City. The online registration worked real well last year and will be activated for this year in the near future. So be sure to mark your calendar for this event.

OROS is pleased to sponsor, for the second year, a Property & Casualty program to its membership. Schools that have received their quotes, have seen significant savings in their Property and Casualty coverage. We anticipate that this trend will continue. **Read the next article for more information.**

## **LOOKING FOR NEW WAYS TO SAVE YOUR DISTRICT MONEY?**

**By Lee Roy Pettyjohn, Director OSPCC**

Look no further. The Oklahoma Schools Property and Casualty Coop is here!

In this climate of rising cost and declining revenue, saving your Districts' precious dollars has NEVER been more critical. The OSPCC is actively quoting and building a quality, comprehensive, AFFORDABLE Property and Casualty Program. OSPCC has already saved hundreds of thousands of dollars for it's member Districts, and as more and more districts join, savings continue to grow. Currently, districts are seeing a savings of up to 30% PRIOR to receiving the announced increase. There is NO obligation to receive a quote. Time is critical, however; and in order for your District to see the savings they could obtain, follow the directions below to get the needed info in:

**CERTIFICATE OF COVERAGE-** From your current year policies (also provide previous years if available), including the invoice or pricing page.

**PROPERTY SCHEDULE-** From your most recent property appraisal. (This lists each building with construction type, year built, square footage, replacement costs, and content replacement costs).

**VEHICLE SCHEDULE-** That includes year, make, model, last four VIN, and purchase cost.

**DETAIL LOSS RUNS-** By line of coverage, by coverage term, for the previous 5 years.

Please send this information to: **Steve Neece, OSPCC Fax Number-903-784-2895**

**Email to- [Steve@ospcc.org](mailto:Steve@ospcc.org)**

**For more information: contact Lee Roy Pettyjohn**

**Director, OSPCC**

**580-920-4572**

**[leeroy@redriverok.com](mailto:leeroy@redriverok.com)**

**OROS CALENDAR**

**THE BOARD DOES NOT MEET IN JULY**

**OROS Board of Directors Meeting**

**June 15, 2011**

**OSSAA Building**

**Oklahoma City, OK**

**10:00 A. M.**

**OROS Board of Directors Meeting**

**August 17, 2011**

**OSSAA Building**

**Oklahoma City, OK**

**10:00 A. M.**

**OROS Board of Directors Meeting**

**September 21, 2011**

**OSSAA Building**

**Oklahoma City, OK**

**10:00 A. M.**

**OROS Fall Conference**

**October 27-28, 2011**

**Clarion Meridian Convention Center**

**Oklahoma City, OK**

**DON'T FORGET TO RENEW YOUR MEMBERSHIP. IF YOU NEED ANOTHER INVOICE,  
JUST GIVE US A CALL AT 580-889-7172 OR E-MAIL ME AT [perryw@hughes.net](mailto:perryw@hughes.net) .**