

An Act

ENROLLED HOUSE
BILL NO. 2157

By: Nollan and Bennett (John)
of the House

and

Smalley of the Senate

An Act relating to schools; amending 70 O.S. 2011, Section 18-114.9, as amended by Section 1, Chapter 56, O.S.L. 2015 (70 O.S. Supp. 2016, Section 18-114.9), which relates to reduction in teacher salary; modifying type of retention pay that is not included in total compensation of teachers; deleting provision from previous school year; amending 70 O.S. 2011, Section 6-127A, which relates to public school paraprofessionals; authorizing board to extend an existing contract with a paraprofessional for specified compensation; providing an effective date; and declaring an emergency.

SUBJECT: Education personnel compensation

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 18-114.9, as amended by Section 1, Chapter 56, O.S.L. 2015 (70 O.S. Supp. 2016, Section 18-114.9), is amended to read as follows:

Section 18-114.9 A. If a teacher, as defined in Section 6-101.3 of this title, is employed by the same school district for the next school year as the preceding school year, the total compensation, consisting of salary and fringe benefits, of the teacher shall not be decreased the next school year unless the hours or the duties of the teacher are reduced proportionately. Compensation shall not include one-time incentive pay that is

provided by the school district to a teacher nor ~~one-time~~ retention incentive pay for returning a ~~second~~ the next year.

~~For school year 2004-05, total compensation shall not include any amount paid by a district during school year 2003-04 over and above the flexible benefit allowance for certified personnel pursuant to Section 26-105 of this title toward employee health insurance if:~~

~~1. The district provided the health insurance benefit mandated in Section 1310.1 of Title 74 of the Oklahoma Statutes as a fringe benefit that required the employee to accept the health insurance option in order to receive the benefit; and~~

~~2. The district did not apply the payment toward meeting the requirements of subsection A of Section 18-114.7 of this title.~~

B. Subject to the provisions of this section, any school district that willfully reduces or has in years previous to enactment of this section willfully reduced the compensation of a teacher in violation of subsection A of this section shall forfeit as a penalty a portion of its State Aid equal to the total amount that the teacher was underpaid. If the teacher was underpaid for more than one (1) school year, the amount forfeited shall equal the cumulative amount that the teacher was underpaid. The amount to be forfeited shall be deducted from the State Aid payment following confirmation of the underpayment by the State Department of Education.

C. In addition to the amount of State Aid forfeited as a penalty pursuant to subsection B of this section, in order to ensure that the teacher receives the full amount of unpaid compensation, the State Department of Education shall withhold an amount which is equal to the total amount that the teacher was underpaid from the State Aid payment of the school district and pay the amount directly to the teacher. The Board shall not withhold an amount for payment to the teacher pursuant to the subsection if the teacher has recovered the underpayment pursuant to judicial action.

D. Complaints filed with the State Board of Education pursuant to this section may be based on alleged underpayments during fiscal years that began:

1. On or after July 1, 2002; or

2. Before July 1, 2002, if the teacher filed an action to recover the underpayment in a court of competent jurisdiction before July 1, 2002.

E. Complaints filed with the State Board of Education alleging underpayment during fiscal years that began on or after July 1, 2002, shall be filed within one (1) year of the end of the fiscal year in which the underpayment is alleged to have occurred.

F. Filing a complaint with the State Board of Education pursuant to this section shall not operate to prohibit a teacher from filing an action for underpayment in a court of competent jurisdiction or continuing to pursue an action for underpayment pending in a court of competent jurisdiction on August 29, 2003.

G. The State Board of Education shall promulgate rules necessary to implement the provisions of this section. The rules shall include, but not be limited to, procedures for a teacher to file a complaint for violation of this section and the Department to investigate the complaint.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 6-127A, is amended to read as follows:

Section 6-127A. A. The Oklahoma Legislature recognizes that public school paraprofessionals play an important role in educating school children and in assisting teachers. The Legislature further recognizes the increasing role of public school paraprofessionals in the school system in light of teacher shortages. To achieve the goal of excellence for all persons who have an impact on student learning, it is the intent of the Oklahoma Legislature that public school paraprofessionals be afforded career opportunities and economic incentives through a career development program.

B. The State Board of Education shall adopt a program for the career development of public school paraprofessionals. The purpose of the program is to provide to public school paraprofessionals a system of career development which is based upon education and training advancement to encourage excellence among public school paraprofessionals. Nothing in this section shall be construed to require public school paraprofessionals to participate in the career development program.

C. The board of education of a school district shall have authority to extend an existing contract with a public school

paraprofessional that provides for the payment of compensation for paraprofessional services rendered for the same time period during which the paraprofessional is also assigned to the school district for practice teaching as a student teacher.

D. For the purposes of this section, a public school paraprofessional is an employee of a school district whose position is either instructional in nature, or who delivers other direct services to students and/or their parents. A public school paraprofessional serves in a position for which a teacher or another professional has the ultimate responsibility for the design, implementation, and evaluation of the individual educational programs or related services and student performance.

SECTION 3. This act shall become effective July 1, 2017.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 20th day of May, 2017.

LaHarold Wright
Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of May, 2017.

Arthur Datta
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 22nd

day of May, 20 17, at 5:03 o'clock P M.

By: *Audrey Redwell*

Approved by the Governor of the State of Oklahoma this 25th

day of May, 20 17, at 10:30 o'clock A M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 25th

day of May, 20 17, at 11:33 o'clock A M.

By: *Janice Jany*