

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE

FOR

ENGROSSED SENATE BILL NO. 1317

By: Rozell of the Senate

and

Culver of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to Northeast Oklahoma Public Facilities Authority; amending 25 O.S. 1991, Section 33, which relates to definitions; stating exemption for Northeast Oklahoma Public Facilities Authority; amending 68 O.S. 1991, Section 1356, as last amended by Section 4, Chapter, 390, O.S.L. 1997 (68 O.S. Supp. 1997, Section 1356), which relates to tax exemptions; including Northeast Oklahoma Public Facilities Authority in certain exemption; amending 74 O.S. 1991, Section 18c, as last amended by Section 1, Chapter 296, O.S.L. 1997, Section 2, Chapter 342, O.S.L. 1995, Section 1, Chapter 291, O.S.L. 1995, as amended by Section 4, Chapter 214, O.S.L. 1996, 85.12, as last amended by Section 26 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, 126.1 as amended by Section 6, Chapter 292, O.S.L. 1997, 126.2, as last amended by Section 7, Chapter 292, O.S.L. 1997 and 129.4, as amended by Section 8, Chapter 292, O.S.L. 1997 (74 O.S. Supp. 1997, Sections 18c, 62.2, 85.9D, 126.1, 126.2 and 129.4), which relate to employing attorneys, surplus state property, state contracts, Oklahoma Central Purchasing Act, easements, leasing state lands and sale of state property; authorizing Authority to employ attorney; exempting Authority from requirements of the Oklahoma Surplus Property Act; exempting Authority from requirements to coordinate certain computer purchases; exempting Authority from the provisions of the Oklahoma Central Purchasing Act; prohibiting Director of Central Services from granting certain easements on Authority lands; prohibiting Director of Central Services from leasing certain Authority lands; exempting Authority from certain requirements related to disposal of state-owned real property; amending 75 O.S. 1991, Section 250.4, as last amended by Section 5, Chapter 206, O.S.L. 1997 (75 O.S. Supp. 1997, Section 250.4), which relates to the Administrative Procedures Act; exempting Authority from provisions of act; and declaring an emergency.

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

SECTION 1. AMENDATORY 25 O.S. 1991, Section 33, is amended to read as follows:

Section 33. The terms "state agency", "agency of the state", "public officer" or "state officer", when used in any statute other than the Public Trust Act, Sections 176 through 180.55 of Title 60 of the Oklahoma Statutes, and Sections 164 through 166 of Title 60 of the Oklahoma Statutes, shall not include the Oklahoma Ordnance Works Authority or its Trustees, or the Northeast Oklahoma Public Facilities Authority except where a contrary intention plainly and expressly appears.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1356, as last amended by Section 4, Chapter 390, O.S.L. 1997 (68 O.S. Supp. 1997, Section 1356), is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by this article:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this article, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt

incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls shall be exempt from sales tax;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority and the Oklahoma Municipal Power Authority, or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in

the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. Sales of tangible personal property made by:

- a. a public school,
- b. a private school offering instruction for grade levels kindergarten through twelfth grade,
- c. a public school district,
- d. a public or private school board,
- e. a public or private school student group or organization,
- f. a parent-teacher association or organization, or
- g. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization.

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:
 - a. local 4-H clubs,
 - b. county, regional or state 4-H councils,
 - c. county, regional or state 4-H committees,
 - d. 4-H leader associations,
 - e. county, regional or state 4-H foundations, and
 - f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma ~~Department of~~ Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box

office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:

- (1) provides primary care services at no cost to the recipient, and
- (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs or YWCAs for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and

shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to an organization exempt from tax pursuant to Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which is supported or sponsored by one or more churches, members of which serve as trustees of the organization; and

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 18c, as last amended by Section 1, Chapter 296, O.S.L. 1997 (74 O.S. Supp. 1997, Section 18c), is amended to read as follows:

Section 18c. A. 1. Except as otherwise provided by this subsection, no state officer, board or commission shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission in any matter.

2. The provisions of this subsection shall not apply to the Corporation Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the Board of Corrections, the Oklahoma Health Care Authority, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission, the Oklahoma Energy Resources Board,

the Department of Central Services, the Oklahoma Merit Protection Commission, the Office of Personnel Management, the Oklahoma Water Resources Board, the Department of Labor, the State Department of Agriculture, the Northeast Oklahoma Public Facilities Authority and the Office of Juvenile Affairs.

3. The provisions of paragraph 2 of this subsection shall not be construed to authorize the Office of Juvenile Affairs to employ any attorneys that are not specifically authorized by law.

4. All the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that:

- a. the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title, and
- b. liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court.

B. At the request of any state officer, board or commission, except the Corporation Commission, the Board of Managers of the State Insurance Fund, Oklahoma Tax Commission and the Commissioners of the Land Office, the Grand River Dam Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which they may be sued in their official capacity. At the request of any such state officer, board or commission, the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, if after investigation the Attorney General is convinced there is sufficient legal merit to justify the action.

C. Any officer, board, or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of the Governmental Tort Claims Act.

D. Nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and departments of state specified in subsection B of this section, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

SECTION 4. AMENDATORY Section 2, Chapter 342, O.S.L. 1995 (74 O.S. Supp. 1997, Section 62.2), is amended to read as follows:

Section 62.2 For purposes of the Oklahoma Surplus Property Act:

1. "Surplus property" means any item, commodity, material, supplies or equipment owned by a state agency and determined by such state agency to be excess, obsolete, antiquated, unused or not needed;

2. "State agency" means any state board, bureau, commission, department, authority, public trust, interstate commission, the Judiciary, the Legislature, and the Office of the Governor. The term "state agency" shall not include components of institutions of higher education in this state, or the Northeast Oklahoma Public Facilities Authority;

3. "Department" means the Department of Central Services;

4. "Director" means the Director of the Department of Central Services;

5. "Surplus property program" means any program which may be established by the Department of Central Services for the purchase, sale and disposal of surplus property;

6. "Sale" includes but is not limited to authorization for the Director to sell by sealed bids or auction; and

7. "Minimal or no value" means the surplus property having a value less than any costs incurred in the sale, trade or disposal of the property.

SECTION 5. AMENDATORY Section 1, Chapter 291, O.S.L. 1995, as amended by Section 4, Chapter 214, O.S.L. 1996 (74 O.S. Supp. 1997, Section 85.9D), is amended to read as follows:

Section 85.9D A. As used in this section:

1. "Consolidation contracts" shall mean contracts for several state entities, entered into for the purposes of purchasing computer software maintenance and hardware maintenance contracts in quantity; and

2. "Enterprise contracts" shall mean agreements which would include all products used by this state that are manufactured, developed and designed by an individual vendor.

B. Except as otherwise provided in subsection C of this section, agencies within the executive branch shall coordinate any purchases of computer software maintenance and hardware maintenance contracts through the Department of Central Services. The Department of Central Services is authorized to establish consolidated contracts and enterprise agreements for the purpose of purchasing computer software maintenance and hardware maintenance contracts. The Department of Central Services is authorized to employ negotiations in lieu of bidding procedures in the purchase of the maintenance contracts only if the negotiations reduce the state's cost.

C. Purchases of computer software maintenance and hardware maintenance contracts for the telecommunications network known as OneNet and such purchases by agencies of the executive branch for maintenance of software or hardware used in connection with OneNet or for applications for which compliance with standards or protocols established for OneNet users is required, shall be coordinated with the Information Services Division of the Office of State Finance.

D. The provisions of this section shall not apply to the Northeast Oklahoma Public Facilities Authority.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 85.12, as last amended by Section 26 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except such as may be directly in conflict herewith; and

all claims, warrants and bonds shall be examined, inspected and approved as now provided by law.

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title:

1. Food and other products produced by state institutions and agencies;

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by institutions of The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees. In order to be exempt from the Oklahoma Central Purchasing Act pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of the Oklahoma Central Purchasing Act;

4. Acquisitions by institutions of The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education, or the University Centers subject to the State Regents insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials, and specialized laboratory equipment, or to acquisitions for the telecommunications network known as OneNet, whether said network is governed or operated by the State Regents or any other state entity assigned responsibility for OneNet;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges,

or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations or employment services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Acquisition of products and services by the University Hospitals and the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to ensure appropriate competition and economical and efficient purchasing, and shall be approved by the Director of Central Purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Acquisitions by the Grand River Dam Authority;

13. Purchases by rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. Purchases by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority or the Midwestern Oklahoma Development Authority;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when the Authority's Board of Directors determines that an emergency exists, and for the services of legal counsel when approved by the Attorney General;

16. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

17. Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

18. Contracts entered into by the Oklahoma Department of Vocational and Technical Education for the development, revision, or updating of vocational curriculum materials, and contracts entered into by the Oklahoma Department of Vocational and Technical Education for training and supportive services that meet the needs of new or expanding industries;

19. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

20. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

21. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

22. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current statewide contract and the terms of such contract are more favorable to the agency than the terms of a statewide contract for the same products as determined by the Director of Central Purchasing;

23. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human

Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

24. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current statewide contract or the terms of such federal contract are more favorable to the agency than the terms of a statewide contract for the same products;

25. Purchases amounting to less than the amount requiring competitive bid pursuant to Section 85.7 of this title. The Director of Central Services shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars (\$750.00) and not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) to ensure competitiveness and fairness in such purchases;

26. Purchases or acquisitions of clothing for clients of the Department of Human Services and purchases and acquisitions of food for group homes operated by the Department of Human Services;

27. Purchases made or contracts entered into by the Oklahoma Energy Resources Board;

28. Purchases or acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and purchases and acquisitions of food for group homes operated by the Office of Juvenile Affairs;

29. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title; and

30. Expenditures incurred by the Department of Securities to investigate, initiate, or pursue administrative, civil, or criminal proceedings involving potential violations of the acts under the Department's jurisdiction.

C. Notwithstanding the exclusions provided herein, any agency or common school of Oklahoma, any municipality of the state, any rural fire protection district, and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and Req. No. 3065Page 16

the services of the Director of Central Purchasing. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Department of Central Services, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority to ensure that said purchasing policies and procedures, as approved, are being followed.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 126.1, as amended by Section 6, Chapter 292, O.S.L. 1997 (74 O.S. Supp. 1997, Section 126.1), is amended to read as follows:

Section 126.1 A. The Director of the Department of Central Services is hereby authorized to grant easements, rights-of-way, and enter into contracts authorizing the construction and maintenance of telephone, electric transmission and distribution lines, railroad lines, telegraph lines, and pipelines across any state lands under the management of said Director, and all lands set apart for the use and benefit of any state agency, department, or institution including all lands set apart for use of colleges, universities, hospitals, and eleemosynary institutions. Said easements and rights-of-way grants shall be for a period not to exceed twenty (20) years and shall provide for such considerations, terms, and conditions including privileges and conditions of renewal, as the Director of the Department of Central Services may determine advisable for the best interests of the state institutions in possession thereof. This section and

Section 126.2 of this title shall not affect the lands under the jurisdiction and control of the Commissioners of the Land Office of this state.

B. The Oklahoma Ordnance Works Authority ~~and~~, the Midwestern Oklahoma Development Authority, and the Northeast Oklahoma Public Facilities Authority and their lands shall be exempt from the application of this section.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 126.2, as last amended by Section 7, Chapter 292, O.S.L. 1997 (74 O.S. Supp. 1997, Section 126.2), is amended to read as follows:

Section 126.2 A. The Director of Central Services is hereby authorized to lease for a temporary period of time the surface of any of the lands belonging to the state described in Section 126.1 of this title, which are not needed or required for the proper maintenance of the institutions or departments in possession thereof.

B. Except as otherwise provided by Section ~~±~~ 6201 of this ~~act~~ title, said leases shall be for a period of time not exceeding three (3) years and upon such other terms and conditions as said Director may determine to be in the best interests of the state.

C. Except as otherwise provided by Section ~~±~~ 6201 of this ~~act~~ title, said leases shall provide for a termination of the lease upon reasonable notice in writing whenever the needs of the state or the institution in possession thereof requires said land.

D. Except as otherwise provided by Section ~~±~~ 6201 of this ~~act~~ title, said lease contracts shall not become effective until they are submitted to and approved by the Governor of this state or his or her designee.

E. The Director may also execute lease contracts for said lands to any institution or agency or department, commission, or municipal subdivision that requires the need of said land in conjunction with cooperation or participation in any city or state project authorized by law, if said contracts or agreements will not interfere with or restrict in any manner, the proper use of said lands by the state institution in possession thereof, and

shall not become effective until after approval by the Governor or his or her designee.

F. The Oklahoma Ordnance Works Authority ~~and~~, the Midwestern Oklahoma Development Authority and the Northeast Oklahoma Public Facilities Authority and their lands shall be exempt from the application of this section.

G. Lands leased to private prison contractors pursuant to Section 561 of Title 57 of the Oklahoma Statutes shall be exempt from the application of this section.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 129.4, as amended by Section 8, Chapter 292, O.S.L. 1997 (74 O.S. Supp. 1997, Section 129.4), is amended to read as follows:

Section 129.4 A. Unless procedures for the disposal of real property owned by this state are otherwise provided for by law, no department, board, commission, institution, or agency of this state shall sell, exchange, or otherwise dispose of such real property subject to its jurisdiction except as provided for in subsection B of this section.

B. 1. Every department, board, commission, institution, or agency, upon legislative authorization to dispose of a parcel of real property or upon a determination, in writing, by said department, board, commission, institution, or agency that a parcel of real property subject to its jurisdiction is no longer needed by said department, board, commission, institution, or agency, shall request the Department of Central Services to dispose of said real property.

2. Upon notification by the department, board, commission, institution, or agency to sell a parcel of real property, the Department of Central Services shall:

a. obtain three new and complete appraisals of such property. The appraisals shall be made by three disinterested persons, knowledgeable in real estate costs, who shall ascertain:

- (1) the present fair value of the property, and
- (2) the present value of the improvements on such property, and

(3) the actual condition of the improvements on the property, and

- b. cause notice of such sale to be published for at least one (1) day in a newspaper of general statewide circulation authorized to publish legal notices, and for at least three (3) consecutive weeks in a newspaper of general circulation published in the county or counties in which the property is located. The notice shall contain the legal description of each parcel of real property to be offered for sale, the appraised value thereof, the time and location of the sale or opening of the bids, and terms of the sale including the fact that no parcel of property shall be sold for less than ninety percent (90%) of the appraised value of the real property, and
- c. offer said property through public auction or sealed bids within three (3) weeks after the last publication of the notice in said newspapers. The property shall be sold to the highest bidder. The Department of Central Services shall not accept a bid of less than ninety percent (90%) of the appraised fair value of the property and the improvements on such property. The Department of Central Services is authorized to reject all bids.

3. The cost of the appraisements required by the provisions of this section, together with other necessary expenses incurred pursuant to this section, shall be paid by the department, board, commission, institution, or agency for which the real property is to be sold from funds available to said department, board, commission, institution, or agency for such expenditure. All monies received from the sale or disposal of said property, except those monies necessary to pay the expenses incurred pursuant to this section, shall be deposited in the General Revenue Fund.

C. This section shall not be construed to authorize any department, board, commission, institution, or agency, not

otherwise authorized by law, to sell, lease, or otherwise dispose of any real property owned by the state.

D. The Oklahoma Ordnance Works Authority and its lands, and the Northeast Oklahoma Public Facilities Authority shall be exempt from the application of this section.

SECTION 10. AMENDATORY 75 O.S. 1991, Section 250.4, as last amended by Section 5, Chapter 206, O.S.L. 1997 (75 O.S. Supp. 1997, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Article I of the Administrative Procedures Act.

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and E of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. The Oklahoma Military Department shall be exempt from the provisions of Article I of the Administrative Procedures Act to the extent it exercises its responsibility for military affairs.

4. The Oklahoma Ordnance Works Authority and the Northeast Oklahoma Public Facilities Authority shall be exempt from Article I of the Administrative Procedures Act.

5. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation shall be exempt from Article I of the Administrative Procedures Act to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. The Oklahoma State Regents for Higher Education shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. a. The Commissioner of Public Safety shall be exempt from Sections 303.1, 304, 307.1, 308 and 308.1 of this title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations for which the Commissioner has no discretion when the state is mandated to promulgate rules identical to federal rules and regulations.
- b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma Register". Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference.
 - c. Such copies of promulgated rules shall be filed with the Secretary as required by Section 251 of this title.
 - d. For any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
3. The Oklahoma Ordnance Works Authority;
4. The Oklahoma Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;
8. The Northeast Oklahoma Public Facilities Authority;

9. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;

~~9.~~ 10. The Board of Regents or employees of any university, college, or other institution of higher learning, except with respect to expulsion of any student for disciplinary reasons; provided, that upon any alleged infraction by a student of rules of such institutions, with a lesser penalty than expulsion, such student shall be entitled to such due process, including notice and hearing, as may be otherwise required by law, and the following grounds of misconduct, if properly alleged in disciplinary proceedings against a student, shall be cause to be barred from the campus and be removed from any college or university-owned housing, upon conviction in a court of law:

- a. participation in a riot as defined by the penal code,
- b. possession or sale of any drugs or narcotics prohibited by the penal code, Section 1 et seq. of Title 21 of the Oklahoma Statutes, or
- c. willful destruction of or willful damage to state property;

~~10.~~ 11. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules,
- f. any filing of false information;

~~11.~~ 12. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

~~12.~~ 13. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

~~13.~~ 14. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

~~14.~~ 15. The Oklahoma Military Department;

~~15.~~ 16. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority;

~~16.~~ 17. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; and

~~17.~~ 18. The position audit procedure, including the impartial review process, of the Office of Personnel Management pursuant to Section 840-4.3 of Title 74 of the Oklahoma Statutes. Provided, that any appeal from an impartial review determination to a court of competent jurisdiction shall be confined to the record in accordance with the provisions of Article II of the Administrative Procedures Act.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and 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."

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