

1 ENGROSSED HOUSE AMENDMENTS  
TO  
2 ENGROSSED SENATE BILL NO. 1553

By: Gumm of the Senate

3 and

4 Jackson of the House  
5  
6  
7

8 An Act relating to state government; amending 74 O.S.  
2001, Sections 840-1.6A, as last amended by Section  
9 1, Chapter 312, O.S.L. 2004, 840-2.17, as last  
amended by Section 2, Chapter 342, O.S.L. 2007 and  
10 840-2.27C, as last amended by Section 3, Chapter 342,  
O.S.L. 2007 (74 O.S. Supp. 2007, Sections 840-1.6A,  
11 840-2.17 and 840-2.27C), which relate to the Office  
of Personnel Management, raises and salary  
12 adjustments; requiring all agencies of the executive  
branch to submit job descriptions for certain  
13 positions to the Office of Personnel Management;  
requiring certain format; providing for promulgation  
14 of rules; deleting requirement for state agencies to  
submit certain annual report to the Office of  
15 Personnel Management; deleting certain reference; and  
providing an effective date.  
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18 AMENDMENT NO. 1. Page 1, lines 6 through 13 1/2, strike the title

19 AMENDMENT NO. 2. Page 22, line 13 1/2, insert the following

20 "SECTION 4. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 3316 of Title 74, unless there  
22 is created a duplication in numbering, reads as follows:

23 The Governor may, by executive order, designate a state agency  
24 as an enterprise agency. The designation of an enterprise agency

1 shall be for a period of five (5) years. The purpose of designating  
2 an enterprise agency is to grant the agency relief from certain  
3 statutory provisions or agency rules as provided by this act upon a  
4 prior showing of projected savings resulting from such relief.

5 SECTION 5. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 3317 of Title 74, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. Prior to each fiscal year, or as soon thereafter as  
9 possible, the Governor and each director of a designated enterprise  
10 agency shall enter into an annual enterprise agreement which shall  
11 set forth measurable organizational and budgetary goals for the  
12 director in key operational areas of the agency. The annual  
13 performance agreement shall be made public and a copy of the  
14 agreement shall be submitted to the House of Representatives and the  
15 Senate.

16 B. Except when contrary to the Oklahoma Constitution, the  
17 Governor may authorize the payment of a bonus to a director of an  
18 enterprise agency in an amount not in excess of fifteen percent  
19 (15%) of the director's annual rate of pay, based upon the  
20 Governor's evaluation of the director's performance in relation to  
21 the goals set forth in the annual performance agreement.

22 C. A director of an enterprise agency may authorize the payment  
23 of bonuses to employees of the enterprise agency in a total amount  
24 not in excess of fifteen percent (15%) of the individual employee's

1 annual rate of pay, based upon the director's evaluation of the  
2 employee's performance.

3 SECTION 6. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3318 of Title 74, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Except as otherwise provided by law, proceeds from the sale  
7 or lease of capital assets that are under the control of an  
8 enterprise agency shall be retained by the enterprise agency and  
9 used for such purposes within the scope of the responsibilities of  
10 the enterprise agency.

11 B. Notwithstanding any provision of law to the contrary, one-  
12 half (1/2) of all unencumbered or unobligated balances of  
13 appropriations made for each fiscal year of that fiscal period to  
14 the enterprise agency shall not revert to the State Treasury or to  
15 the credit of the funds from which the appropriations were made.

16 SECTION 7. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3319 of Title 74, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. Notwithstanding any provision of law to the contrary, an  
20 enterprise agency shall not be subject to any limitation relating to  
21 the number of or pay grade assigned to its employees, including any  
22 limitation on the number of full-time-equivalent positions.

23 B. An enterprise agency may waive personnel rules relating to  
24 hiring and may exercise the authority granted to the Office of

1 Personnel Management concerning employees of the enterprise agency.  
2 The waiver of any statute or rule pursuant to this subsection shall  
3 be filed with the Office of Personnel Management and shall be  
4 available for public inspection.

5 SECTION 8. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 3320 of Title 74, unless there  
7 is created a duplication in numbering, reads as follows:

8 An enterprise agency may waive any provision of the Oklahoma  
9 Central Purchasing Act and any administrative rule of the Department  
10 of Central Services regarding procurement, fleet management,  
11 printing and copying, or maintenance of buildings and grounds, and  
12 may exercise the authority of the Department of Central Services as  
13 it relates to the physical resources of the state. A waiver of a  
14 statute or rule pursuant to this section shall be filed with the  
15 Department of Central Services and made available for public  
16 inspection.

17 SECTION 9. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 3321 of Title 74, unless there  
19 is created a duplication in numbering, reads as follows:

20 An enterprise agency may waive any provision of the Oklahoma  
21 Central Purchasing Act, any provision of Section 41.5a et seq. of  
22 Title 62 of the Oklahoma Statutes, and any administrative rule  
23 regarding the acquisition and use of information technology and may  
24 exercise the powers of the Department of Central Services and the

1 Information Services Division of the Office of State Finance as it  
2 relates to information technology, except that the enterprise agency  
3 shall comply with Section 41.5e of Title 62 of the Oklahoma  
4 Statutes. A waiver of any statute or rule pursuant to this  
5 subsection shall be filed with the Department of Central Services  
6 and made available for public inspection.

7 SECTION 10. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 3322 of Title 74, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. An enterprise agency may temporarily waive or suspend the  
11 provisions of any administrative rule if strict compliance with the  
12 rule impacts the ability of the enterprise agency to perform its  
13 duties in a more cost-efficient manner and the requirements of this  
14 subsection are met.

15 B. The procedure for granting a temporary waiver or suspension  
16 of any administrative rule shall be as follows:

17 1. The enterprise agency may waive or suspend a rule if the  
18 agency finds, based on clear and convincing evidence, all of the  
19 following:

20 a. the application of the rule poses an undue financial  
21 hardship on the agency,

22 b. the waiver or suspension from the requirements of a  
23 rule in the specific case would not prejudice the  
24 substantial legal rights of any person,

1           c. substantially equal protection of public health,  
2           safety, and welfare will be afforded by a means other  
3           than that prescribed in the particular rule for which  
4           the waiver or suspension is requested, and

5           d. the waiver or suspension would not result in a  
6           violation of due process, a violation of state or  
7           federal law, or a violation of the state or federal  
8           constitution;

9           2. If an enterprise agency proposes to grant a waiver or  
10          suspension, the enterprise agency shall draft the waiver or  
11          suspension so as to provide the narrowest exception possible to the  
12          provisions of the rule and may place any condition on the waiver or  
13          suspension that the enterprise agency finds desirable to protect the  
14          public health, safety, and welfare. The enterprise agency shall  
15          then submit the waiver or suspension to the Governor;

16          3. The Governor shall review the proposed waiver or suspension  
17          and may either take no action, affirmatively approve the waiver or  
18          suspension, delay the effective date of the waiver or suspension or  
19          reject the waiver or suspension.

20           a. The waiver or suspension shall become effective within  
21           ninety (90) days from the date of submission if the  
22           Governor approves or takes no action concerning the  
23           proposed waiver or suspension.

1           b. If the Governor delays the effective date of the  
2           waiver or suspension, but takes no further action to  
3           rescind the waiver or suspension, the proposed waiver  
4           or suspension shall become effective on the date to  
5           which the waiver or suspension was delayed.

6           c. The Governor shall notify the enterprise agency in  
7           writing of the action concerning the proposed waiver  
8           or suspension.

9           d. Rejection of the waiver or suspension by the Governor  
10          shall require that the enterprise agency fully comply  
11          with the rule; and

12          4. Copies of the grant or denial of a waiver or suspension  
13          under this subsection shall be filed and made available to the  
14          public by the agency.

15          C. A waiver or suspension granted pursuant to this section  
16          shall be for a period of time not to exceed twelve (12) months, and  
17          as determined by the applicable enterprise agency. A renewal of a  
18          temporary waiver or suspension granted pursuant to this section  
19          shall be granted or denied in the same manner as the initial waiver  
20          or suspension.

21          SECTION 11.        NEW LAW        A new section of law to be codified  
22          in the Oklahoma Statutes as Section 3323 of Title 74, unless there  
23          is created a duplication in numbering, reads as follows:  
24

1 Each enterprise agency shall submit a written report to the  
2 Governor and the Legislature by December 31 of each year summarizing  
3 the activities of the enterprise agency for the preceding fiscal  
4 year. The report shall include information concerning the  
5 expenditures of the agency and the number of filled full-time-  
6 equivalent positions during the preceding fiscal year. The report  
7 shall include information relating to the actions taken by the  
8 agency pursuant to the authority granted by this act.

9 SECTION 12. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 3324 of Title 74, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. An enterprise agency grant fund is created in the State  
13 Treasury under the control of the State Treasurer for the purpose of  
14 providing funding to support innovation by those state agencies  
15 designated as enterprise agencies in accordance with this act.  
16 Innovation purposes shall include but are not limited to training,  
17 development of outcome measurement systems, management system  
18 modifications, and other modifications associated with transition of  
19 operations to enterprise agency status. Moneys in the fund are  
20 appropriated to the Office of State Finance for the purposes  
21 described in this subsection.

22 B. An enterprise agency requesting a grant from the fund shall  
23 complete an application process designated by the Director of the  
24 Office of State Finance.

1 C. Notwithstanding any provision of law to the contrary,  
2 interest or earnings on moneys deposited in the enterprise agency  
3 grant fund shall be credited to the enterprise agency grant fund.  
4 Notwithstanding any provision of law to the contrary, moneys  
5 credited to the enterprise agency grant fund shall not revert to the  
6 fund from which they were appropriated at the close of a fiscal  
7 year."

8 and renumber subsequent section  
9 and amend the title to conform

10 Passed the House of Representatives the 14th day of April, 2008.

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13 Presiding Officer of the House of  
14 Representatives

15 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2008.

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18 Presiding Officer of the Senate