

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1753

By: Sparks

4
5
6 AS INTRODUCED

7 An Act relating to state government; authorizing the
8 Governor to designate certain state agency an
9 enterprise agency; providing for duration of
10 designation; stating purpose; providing for agreement
11 to set certain goal; authorizing the Governor to pay
12 bonus for certain purpose to certain person;
13 authorizing the director to pay bonus for certain
14 purpose to certain person; stating certain exception;
15 authorizing the enterprise agency to waive certain
16 rule concerning employees of the enterprise agency;
17 authorizing the enterprise agency to waive provisions
18 of the Oklahoma Central Purchasing Act and any rule
19 of the Department of Central Services; requiring
20 certain rules to be filed with certain agency;
21 authorizing the enterprise agency to waive certain
22 administrative rule regarding the acquisition and use
23 of information technology; setting procedures for
24 waiving certain provisions of certain rules; setting
time frame for certain waiver or suspension;
requiring report; establishing enterprise agency
grant fund; stating purpose; providing for
application; authorizing enterprise agency to keep
certain funds in the enterprise agency grant fund;
providing for codification; and providing an
effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3316 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 The Governor may, by executive order, designate a state agency
5 as an enterprise agency. The designation of an enterprise agency
6 shall be for a period of five (5) years. The purpose of designating
7 an enterprise agency is to grant the agency relief from certain
8 statutory provisions or agency rules as provided by this act upon a
9 prior showing of projected savings resulting from such relief.

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3317 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

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

21 B. Except when contrary to the Oklahoma Constitution, the
22 Governor may authorize the payment of a bonus to a director of an
23 enterprise agency in an amount not in excess of fifteen percent
24 (15%) of the director's annual rate of pay, based upon the

1 Governor's evaluation of the director's performance in relation to
2 the goals set forth in the annual performance agreement.

3 C. A director of an enterprise agency may authorize the payment
4 of bonuses to employees of the enterprise agency in a total amount
5 not in excess of fifteen percent (15%) of the individual employee's
6 annual rate of pay, based upon the director's evaluation of the
7 employees' performance.

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

11 A. Except as otherwise provided by law, proceeds from the sale
12 or lease of capital assets that are under the control of an
13 enterprise agency shall be retained by the enterprise agency and
14 used for such purposes within the scope of the responsibilities of
15 the enterprise agency.

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

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3319 of Title 74, unless there
23 is created a duplication in numbering, reads as follows:

24

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

5 B. An enterprise agency may waive any personnel rule and may
6 exercise the authority granted to the Office of Personnel Management
7 concerning employees of the enterprise agency. The waiver of any
8 statute or rule pursuant to this subsection shall be filed with the
9 Office of Personnel Management and shall be available for public
10 inspection.

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

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

23
24

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3321 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 An enterprise agency may waive any provision of the Oklahoma
5 Central Purchasing Act, any provision of Section 41.5a et seq. of
6 Title 62 of the Oklahoma Statutes, and any administrative rule
7 regarding the acquisition and use of information technology and may
8 exercise the powers of the Department of Central Services and the
9 Information Services Division of the Office of State Finance as it
10 relates to information technology, except that the enterprise agency
11 shall comply with Section 41.5e of Title 62 of the Oklahoma
12 Statutes. A waiver of any statute or rule pursuant to this
13 subsection shall be filed with the Department of Central Services
14 and made available for public inspection.

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

18 A. An enterprise agency may temporarily waive or suspend the
19 provisions of any administrative rule if strict compliance with the
20 rule impacts the ability of the enterprise agency to perform its
21 duties in a more cost-efficient manner and the requirements of this
22 subsection are met.

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

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

4 a. the application of the rule poses an undue financial
5 hardship on the agency,

6 b. the waiver or suspension from the requirements of a
7 rule in the specific case would not prejudice the
8 substantial legal rights of any person,

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

13 d. the waiver or suspension would not result in a
14 violation of due process, a violation of state or
15 federal law, or a violation of the state or federal
16 constitution;

17 2. If an enterprise agency proposes to grant a waiver or
18 suspension, the enterprise agency shall draft the waiver or
19 suspension so as to provide the narrowest exception possible to the
20 provisions of the rule and may place any condition on the waiver or
21 suspension that the enterprise agency finds desirable to protect the
22 public health, safety, and welfare. The enterprise agency shall
23 then submit the waiver or suspension to the Governor;

1 3. The Governor shall review the proposed waiver or suspension
2 and may either take no action, affirmatively approve the waiver or
3 suspension, delay the effective date of the waiver or suspension or
4 reject the waiver or suspension.

5 a. The waiver or suspension shall become effective within
6 ninety (90) days from the date of submission if the
7 Governor approves or takes no action concerning the
8 proposed waiver or suspension.

9 b. If the Governor delays the effective date of the
10 waiver or suspension, but takes no further action to
11 rescind the waiver or suspension, the proposed waiver
12 or suspension shall become effective on the date to
13 which the waiver or suspension was delayed.

14 c. The Governor shall notify the enterprise agency in
15 writing of the action concerning the proposed waiver
16 or suspension.

17 d. Rejection of the waiver or suspension by the Governor
18 shall require that the enterprise agency fully comply
19 with the rule; and

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

23 C. A waiver or suspension granted pursuant to this section
24 shall be for a period of time not to exceed twelve (12) months, and

1 as determined by the applicable enterprise agency. A renewal of a
2 temporary waiver or suspension granted pursuant to this section
3 shall be granted or denied in the same manner as the initial waiver
4 or suspension.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3323 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 Each enterprise agency shall submit a written report to the
9 Governor and the Legislature by December 31 of each year summarizing
10 the activities of the enterprise agency for the preceding fiscal
11 year. The report shall include information concerning the
12 expenditures of the agency and the number of filled full-time-
13 equivalent positions during the preceding fiscal year. The report
14 shall include information relating to the actions taken by the
15 agency pursuant to the authority granted by this act.

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

19 A. An enterprise agency grant fund is created in the State
20 Treasury under the control of the State Treasurer for the purpose of
21 providing funding to support innovation by those state agencies
22 designated as enterprise agencies in accordance with this act.
23 Innovation purposes shall include but are not limited to training,
24 development of outcome measurement systems, management system

1 modifications, and other modifications associated with transition of
2 operations to enterprise agency status. Moneys in the fund are
3 appropriated to the Office of State Finance for the purposes
4 described in this subsection.

5 B. An enterprise agency requesting a grant from the fund shall
6 complete an application process designated by the Director of the
7 Office of State Finance.

8 C. Notwithstanding any provision of law to the contrary,
9 interest or earnings on moneys deposited in the enterprise agency
10 grant fund shall be credited to the enterprise agency grant fund.
11 Notwithstanding any provision of law to the contrary, moneys
12 credited to the enterprise agency grant fund shall not revert to the
13 fund from which they were appropriated at the close of a fiscal
14 year.

15 SECTION 10. This act shall become effective November 1, 2008.

16

17 51-2-2871 JT 1/22/2008 7:29:27 PM

18

19

20

21

22

23

24