

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR ENGROSSED

5 SENATE BILL NO. 551

6 By: Myers of the Senate

7 and

8 DeWitt of the House

9 SUBCOMMITTEE RECOMMENDATION

10 An Act relating to state government; exempting  
11 certain Department of Environmental Quality contracts  
12 from certain requirements of the Public Competitive  
13 Bidding Act of 1974; exempting certain Department of  
14 Environmental Quality contracts from certain  
15 requirements of the Public Building Construction and  
16 Planning Act; amending 74 O.S. 2001, Section 85.12,  
17 as last amended by Section 77, Chapter 1, O.S.L. 2007  
18 (74 O.S. Supp. 2008, Section 85.12), which relates to  
19 acquisitions excluded from The Oklahoma Central  
20 Purchasing Act; adding an exclusion for certain  
21 Department of Environmental Quality contracts;  
22 amending 74 O.S. 2001, Section 840-2.16, as amended  
23 by Section 1, Chapter 207, O.S.L. 2007 (74 O.S. Supp.  
24 2008, Section 840-2.16), which relates to minimum  
annualized salary; modifying exceptions for certain  
salary adjustments; providing for codification;  
providing an effective date; and declaring an  
emergency.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 103.6 of Title 61, unless there  
is created a duplication in numbering, reads as follows:

1 For purposes of the provisions of the Public Competitive Bidding  
2 Act of 1974, contracts not exceeding One Hundred Thousand Dollars  
3 (\$100,000.00) entered into by the Department of Environmental  
4 Quality for engineering services to assist qualifying small  
5 municipalities or rural water or sewer districts with engineering  
6 reports or plans and specifications needed for construction or  
7 repairs to achieve compliance with federal and state public water  
8 supply or wastewater laws and regulations shall not be considered  
9 public construction contracts and shall not be required to be open  
10 for competitive bidding.

11 SECTION 2. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 204.1 of Title 61, unless there  
13 is created a duplication in numbering, reads as follows:

14 For purposes of the provisions of the Public Building  
15 Construction and Planning Act, contracts not exceeding One Hundred  
16 Thousand Dollars (\$100,000.00) entered into by the Department of  
17 Environmental Quality for engineering services to assist qualifying  
18 small municipalities or rural water or sewer districts with  
19 engineering reports or plans and specifications needed for  
20 construction or repairs to achieve compliance with federal and state  
21 public water supply or wastewater laws and regulations shall not be  
22 considered construction projects and shall not be subject to the  
23 requirements of the act.

24

1 SECTION 3. AMENDATORY 74 O.S. 2001, Section 85.12, as  
2 last amended by Section 77, Chapter 1, O.S.L. 2007 (74 O.S. Supp.  
3 2008, Section 85.12), is amended to read as follows:

4 Section 85.12 A. The provisions of this section shall not be  
5 construed to affect any law relating to fiscal or accounting  
6 procedure except as they may be directly in conflict herewith; and  
7 all claims, warrants, and bonds shall be examined, inspected, and  
8 approved as now provided by law.

9 B. Except as otherwise provided by this section, the  
10 acquisitions specified in this subsection shall be made in  
11 compliance with Section 85.39 of this title but are not subject to  
12 other provisions of The Oklahoma Central Purchasing Act:

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

15 2. The printing or duplication of publications or forms of  
16 whatsoever kind or character by state agencies if the work is  
17 performed upon their own equipment by their own employees. Pursuant  
18 to this paragraph, the state agency may only use equipment owned or  
19 leased by the agency and may only utilize that equipment for  
20 printing services required by the agency in performing duties  
21 imposed upon the agency or functions authorized to be performed by  
22 the agency. Any use of the equipment by the agency pursuant to an  
23 agreement or contract with any other entity resulting in delivery of  
24 intermediate or finished products to the entity purchasing or using

1 the products shall be subject to the provisions of The Oklahoma  
2 Central Purchasing Act;

3 3. Department of Transportation and Transportation Commission  
4 contractual services or right-of-way purchases; contracts awarded  
5 pursuant to bids let by the Transportation Commission for the  
6 maintenance or construction of streets, roads, highways, bridges,  
7 underpasses, or any other transportation facilities under the  
8 control of the Department of Transportation, the acquisitions of  
9 equipment or materials accruing to the Department of Transportation  
10 required in Federal-Aid contracts; and contracts for public service  
11 type announcements initiated by the Department of Transportation;  
12 but not contractual services for advertising or public relations or  
13 employment services;

14 4. Utility services where rates therefor are regulated by a  
15 state or federal regulatory commission, or by municipal ordinance,  
16 or by an Indian Tribal Council for use by the Department of  
17 Corrections only;

18 5. Acquisitions by the University Hospitals Authority. The  
19 Authority shall develop standards for the acquisition of products  
20 and services and may elect to utilize the Purchasing Division. The  
21 standards shall foster economy and short response time and shall  
22 include appropriate safeguards and record-keeping requirements to  
23 ensure appropriate competition and economical and efficient  
24 purchasing;

- 1        6. Contracts for custom harvesting by the Department of  
2 Corrections for the Department or its institutions;
- 3        7. Contracts with private prison contractors which are subject  
4 to the contracting procedures of Section 561 of Title 57 of the  
5 Oklahoma Statutes;
- 6        8. Acquisitions by the Oklahoma Municipal Power Authority;
- 7        9. Acquisitions by the Grand River Dam Authority;
- 8        10. Acquisitions by rural water, sewer, gas, or solid waste  
9 management districts created pursuant to the Rural Water, Sewer, Gas  
10 and Solid Waste Management Districts Act;
- 11       11. Acquisitions by the Oklahoma Ordnance Works Authority, the  
12 Northeast Oklahoma Public Facilities Authority, or the Midwestern  
13 Oklahoma Development Authority;
- 14       12. Contracts entered into by the Oklahoma Industrial Finance  
15 Authority for the services of an appraiser or for acquisition of  
16 insurance when the Authority's Board of Directors determines that an  
17 emergency exists, and contracts for the services of legal counsel  
18 when approved by the Attorney General;
- 19       13. Expenditure of monies appropriated to the State Board of  
20 Education for Local and State Supported Financial Support of Public  
21 Schools, except monies allocated therefrom for the Administrative  
22 and Support Functions of the State Department of Education;
- 23       14. Expenditure of monies appropriated to the State Department  
24 of Rehabilitation Services for educational programs or educational

1 materials for the Oklahoma School for the Blind and the Oklahoma  
2 School for the Deaf;

3 15. Contracts entered into by the Oklahoma Department of Career  
4 and Technology Education for the development, revision, or updating  
5 of vocational curriculum materials, and contracts entered into by  
6 the Oklahoma Department of Career and Technology Education for  
7 training and supportive services that address the needs of new or  
8 expanding industries;

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

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

13 18. Acquisitions made by the Oklahoma Historical Society from  
14 monies used to administer the White Hair Memorial;

15 19. Acquisitions available to an agency through a General  
16 Services Administration (GSA) contract or other federal contract if  
17 the acquisition is on current statewide contract and the terms of  
18 the GSA or other federal contract, as determined by the State  
19 Purchasing Director, are more favorable to the agency than the terms  
20 of a statewide contract for the same products;

21 20. Purchases of pharmaceuticals available through a multistate  
22 or multigovernmental contract if such pharmaceuticals are or have  
23 been on state contract within the last fiscal year, and the terms of  
24 such contract are more favorable to the state or agency than the

1 terms of a state contract for the same products, as determined by  
2 the State Purchasing Director. The state entity designated by law,  
3 as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes,  
4 shall participate in the purchase of pharmaceuticals available  
5 through such contracts;

6 21. Contracts for managed health care services entered into by  
7 the state entity designated by law or the Department of Human  
8 Services, as specified in paragraph 1 of subsection A of Section  
9 1010.3 of Title 56 of the Oklahoma Statutes;

10 22. Acquisitions by the Forestry Service of the Oklahoma  
11 Department of Agriculture, Food, and Forestry as authorized by the  
12 federal General Services Administration through a General Services  
13 Administration contract or other federal contract if the  
14 acquisitions are not on current statewide contract or the terms of  
15 the federal contract are more favorable to the agency than the terms  
16 of a statewide contract for the same products;

17 23. Acquisitions of clothing for clients of the Department of  
18 Human Services and acquisitions of food for group homes operated by  
19 the Department of Human Services;

20 24. Acquisitions by the Oklahoma Energy Resources Board;

21 25. Acquisitions of clothing for juveniles in the custody of  
22 the Office of Juvenile Affairs and acquisitions of food for group  
23 homes operated by the Office of Juvenile Affairs;

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1       26. State contracts for flexible benefits plans pursuant to the  
2 Oklahoma State Employees Benefits Act, Section 1361 et seq. of this  
3 title;

4       27. Acquisitions by the Department of Securities to  
5 investigate, initiate, or pursue administrative, civil, or criminal  
6 proceedings involving potential violations of the acts under the  
7 Department's jurisdiction;

8       28. Acquisitions by the Native America Cultural and Educational  
9 Authority and acquisitions by the Oklahoma Department of Commerce to  
10 assist the Native American Cultural and Educational Authority  
11 pursuant to Section 5017 of this title;

12       29. Acquisitions for resale in and through canteens operated  
13 pursuant to Section 537 of Title 57 of the Oklahoma Statutes;

14       30. Acquisitions by the Oklahoma Boll Weevil Eradication  
15 Organization for employment and personnel services, and for  
16 acquiring sprayers, blowers, traps, and attractants related to the  
17 eradication of boll weevils in this state or as part of a national  
18 or regional boll weevil eradication program;

19       31. Contracts entered into by the Oklahoma Indigent Defense  
20 System for expert services pursuant to the provisions of subsection  
21 D of Section 1355.4 of Title 22 of the Oklahoma Statutes;

22       32. Acquisitions by the Oklahoma Correctional Industries and  
23 the Agri-Services programs of the Department of Corrections of raw  
24 materials, component parts and other products, any equipment

1 excluding vehicles, and any services excluding computer consultant  
2 services used to produce goods or services for resale and for the  
3 production of agricultural products;

4 33. Contracts entered into by the Department of Human Services  
5 for provision of supported living services to members of the  
6 plaintiff class in *Homeward Bound, Inc., et. al., v. The Hisson*  
7 *Memorial Center, et. al., Case Number 85-C-437-E, United States*  
8 *District Court for the Northern District of Oklahoma; and*

9 34. Contracts negotiated by the Office of Juvenile Affairs with  
10 designated Youth Services Agencies and the Oklahoma Association of  
11 Youth Services, or another Oklahoma nonprofit corporation whose  
12 membership consists solely of Youth Services Agencies and of whom at  
13 least a majority of Youth Services Agencies are members, pursuant to  
14 the provisions of Section 7302-3.6a of Title 10 of the Oklahoma  
15 Statutes; and

16 35. Contracts not to exceed One Hundred Thousand Dollars  
17 (\$100,000.00) entered into by the Department of Environmental  
18 Quality for engineering services to assist qualifying small  
19 municipalities or rural water or sewer districts with engineering  
20 reports or plans and specifications needed for construction or  
21 repairs to achieve compliance with federal and state public water  
22 supply or wastewater laws and regulations.

23 C. Pursuant to the terms of a contract the State Purchasing  
24 Director enters into or awards, a state agency, common school,

1 municipality, rural fire protection district, county officer, or any  
2 program contract, purchase, acquisition or expenditure that is not  
3 subject to the provisions of The Oklahoma Central Purchasing Act,  
4 may, unless acting pursuant to a contract with the state that  
5 specifies otherwise, make use of statewide contracts and the  
6 services of the Purchasing Division and the State Purchasing  
7 Director. Any political subdivision or rural fire protection  
8 district may designate the State Purchasing Director as its agent  
9 for any acquisition from a statewide contract or otherwise available  
10 to the state.

11 D. The State Purchasing Director shall make periodic audits of  
12 the purchasing procedures of the Oklahoma Ordnance Works Authority,  
13 the Northeast Oklahoma Public Facilities Authority, the University  
14 Hospitals Authority, and the Midwestern Oklahoma Development  
15 Authority to ensure that the procedures are being followed.

16 SECTION 4. AMENDATORY 74 O.S. 2001, Section 840-2.16, as  
17 amended by Section 1, Chapter 207, O.S.L. 2007 (74 O.S. Supp. 2008,  
18 Section 840-2.16), is amended to read as follows:

19 Section 840-2.16 Except as otherwise provided by law, any  
20 classified, unclassified or exempt employee of the state, excluding  
21 members of boards and commissions, institutions under the  
22 administrative authority of the Oklahoma State Regents for Higher  
23 Education, employees of public school districts and elected  
24 officials, on July 1 of each year, earning less than the amount

1 established in the Federal Poverty Guidelines for a three-person  
2 household, issued each year in the Federal Register by the United  
3 States Department of Health and Human Services, shall receive the  
4 necessary grade or salary adjustment to provide for a minimum  
5 annualized salary equal to the amount established in the Federal  
6 Poverty Guidelines for a three-person household, issued each year in  
7 the Federal Register by the United States Department of Health and  
8 Human Services. Any classified, unclassified or exempt employee of  
9 the state, excluding members of boards and commissions, institutions  
10 under the administrative authority of the Oklahoma State Regents for  
11 Higher Education, employees of public school districts and elected  
12 officials, employed after July 1, 2007, shall receive a minimum  
13 annualized salary equal to the amount established in the Federal  
14 Poverty Guidelines for a three-person household, issued each year in  
15 the Federal Register by the United States Department of Health and  
16 Human Services. This section shall not apply to those persons  
17 employed pursuant to paragraph 8 and paragraph 12 of subsection A of  
18 Section 840-5.5 and Section 2241 of this title or those persons  
19 employed pursuant to Section 1.6a of Title 53 of the Oklahoma  
20 Statutes.

21 SECTION 5. Section 4 of this act shall become effective July 1,  
22 2009.

23 SECTION 6. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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