

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 45

By: Sharp and Pittman of the
Senate

6 and

7 West (Tammy), Nollan and
8 Baker of the House

9 An Act relating to educator contracts; authorizing
10 the State Department of Education to contract with
11 certain educators for certain services; exempting the
12 contracts from certain act; prohibiting the contracts
13 from being included in certain calculation; amending
14 74 O.S. 2011, Section 85.12, as last amended by
15 Section 1, Chapter 76, O.S.L. 2016 (74 O.S. Supp.
16 2016, Section 85.12), which relates to acquisitions
17 excluded from the Oklahoma Central Purchasing Act;
18 providing an exemption for certain contracts entered
19 into by the Department of Education; providing for
20 codification; providing an effective date; and
21 declaring an emergency.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 3-104.8 of Title 70, unless
25 there is created a duplication in numbering, reads as follows:

26 A. Subject to the availability of funds, the State Department
27 of Education shall be authorized to directly contract with educators
28 who are current or retired employees of Oklahoma public school

1 districts, for services to assist the Department as may be necessary
2 when such services require the expertise and qualifications of an
3 Oklahoma certified educator.

4 B. The contract shall not:

5 1. Be subject to the competitive bidding requirements of the
6 Oklahoma Central Purchasing Act; and

7 2. Be included in the calculation of the educator's salary for
8 purposes of meeting the district or statutory minimum salary
9 schedule or for purposes of calculating Teachers' Retirement System
10 of Oklahoma contributions or benefits.

11 SECTION 2. AMENDATORY 74 O.S. 2011, Section 85.12, as
12 last amended by Section 1, Chapter 76, O.S.L. 2016 (74 O.S. Supp.
13 2016, Section 85.12), is amended to read as follows:

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

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

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

1 2. The printing or duplication of publications or forms of
2 whatsoever kind or character by state agencies if the work is
3 performed upon their own equipment by their own employees. Pursuant
4 to this paragraph, the state agency may only use equipment owned or
5 leased by the agency and may only utilize that equipment for
6 printing services required by the agency in performing duties
7 imposed upon the agency or functions authorized to be performed by
8 the agency. Any use of the equipment by the agency pursuant to an
9 agreement or contract with any other entity resulting in delivery of
10 intermediate or finished products to the entity purchasing or using
11 the products shall be subject to the provisions of The Oklahoma
12 Central Purchasing Act;

13 3. Department of Transportation and Transportation Commission
14 contractual services or right-of-way purchases; contracts awarded
15 pursuant to bids let by the Transportation Commission for the
16 maintenance or construction of streets, roads, highways, bridges,
17 underpasses, or any other transportation facilities under the
18 control of the Department of Transportation, the acquisitions of
19 equipment or materials accruing to the Department of Transportation
20 required in Federal-Aid contracts; and contracts for public service
21 type announcements initiated by the Department of Transportation;
22 but not contractual services for advertising or public relations or
23 employment services;

1 4. Utility services regulated by a state or federal regulatory
2 commission, or by municipal ordinance, or by an Indian Tribal
3 Council;

4 5. Acquisitions by the University Hospitals Authority. The
5 Authority shall develop standards for the acquisition of products
6 and services and may elect to utilize the Purchasing Division. The
7 standards shall foster economy and short response time and shall
8 include appropriate safeguards and record-keeping requirements to
9 ensure appropriate competition and economical and efficient
10 purchasing;

11 6. Contracts for custom harvesting by the Department of
12 Corrections for the Department or its institutions;

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

16 8. Acquisitions by the Oklahoma Municipal Power Authority;

17 9. Acquisitions by the Grand River Dam Authority;

18 10. Acquisitions by rural water, sewer, gas, or solid waste
19 management districts created pursuant to the Rural Water, Sewer, Gas
20 and Solid Waste Management Districts Act;

21 11. Acquisitions by the Oklahoma Ordnance Works Authority, the
22 Northeast Oklahoma Public Facilities Authority, or the Midwestern
23 Oklahoma Development Authority;

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

6 13. Expenditure of monies appropriated to the State Board of
7 Education for Local and State Supported Financial Support of Public
8 Schools, except monies allocated therefrom for the Administrative
9 and Support Functions of the State Department of Education;

10 14. Expenditure of monies appropriated to the State Department
11 of Rehabilitation Services for educational programs or educational
12 materials for the Oklahoma School for the Blind and the Oklahoma
13 School for the Deaf;

14 15. Contracts entered into by the Oklahoma Department of Career
15 and Technology Education for the development, revision, or updating
16 of vocational curriculum materials, and contracts entered into by
17 the Oklahoma Department of Career and Technology Education for
18 training and supportive services that address the needs of new or
19 expanding industries;

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

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

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

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

9 20. Purchases of pharmaceuticals available through a multistate
10 or multigovernmental contract if such pharmaceuticals are or have
11 been on state contract within the last fiscal year, and the terms of
12 such contract are more favorable to the state or agency than the
13 terms of a state contract for the same products, as determined by
14 the State Purchasing Director. The state entity designated by law,
15 as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes,
16 shall participate in the purchase of pharmaceuticals available
17 through such contracts;

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

22 22. Acquisitions by the Forestry Service of the Oklahoma
23 Department of Agriculture, Food, and Forestry as authorized by the
24 federal General Services Administration through a General Services

1 Administration contract or other federal contract if the
2 acquisitions are not on current statewide contract or the terms of
3 the federal contract are more favorable to the agency than the terms
4 of a statewide contract for the same products;

5 23. Acquisitions of clothing for clients of the Department of
6 Human Services and acquisitions of food for group homes operated by
7 the Department of Human Services;

8 24. Acquisitions by the Oklahoma Energy Resources Board;

9 25. Acquisitions of clothing for juveniles in the custody of
10 the Office of Juvenile Affairs and acquisitions of food for group
11 homes operated by the Office of Juvenile Affairs;

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

15 27. Acquisitions by the Department of Securities to
16 investigate, initiate, or pursue administrative, civil, or criminal
17 proceedings involving potential violations of the acts under the
18 Department's jurisdiction and acquisitions by the Department of
19 Securities for its investor education program;

20 28. Acquisitions by the Native American Cultural and
21 Educational Authority and acquisitions by the Oklahoma Department of
22 Commerce to assist the Native American Cultural and Educational
23 Authority pursuant to Section 5017 of this title;

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

3 30. Acquisitions by the Oklahoma Boll Weevil Eradication
4 Organization for employment and personnel services, and for
5 acquiring sprayers, blowers, traps, and attractants related to the
6 eradication of boll weevils in this state or as part of a national
7 or regional boll weevil eradication program;

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

11 32. Acquisitions by the Oklahoma Correctional Industries and
12 the Agri-Services programs of the Department of Corrections of raw
13 materials, component parts and other products, any equipment
14 excluding vehicles, and any services excluding computer consultant
15 services used to produce goods or services for resale and for the
16 production of agricultural products;

17 33. Contracts entered into by the Department of Human Services
18 for provision of supported living services to members of the
19 plaintiff class in Homeward Bound, Inc., et al. v. The Hisson
20 Memorial Center, et al., Case Number 85-C-437-E, United States
21 District Court for the Northern District of Oklahoma;

22 34. Contracts negotiated by the Office of Juvenile Affairs with
23 designated Youth Services Agencies and the Oklahoma Association of
24 Youth Services, or another Oklahoma nonprofit corporation whose

1 membership consists solely of Youth Services Agencies and of whom at
2 least a majority of Youth Services Agencies are members, pursuant to
3 the provisions of Section 2-7-306 of Title 10A of the Oklahoma
4 Statutes and contracts entered into by the Department of Human
5 Services pursuant to Section 1-9-110 of Title 10A of the Oklahoma
6 Statutes with designated Youth Services Agencies;

7 35. Contracts not to exceed One Hundred Thousand Dollars
8 (\$100,000.00) entered into by the Department of Environmental
9 Quality for engineering services to assist qualifying small
10 municipalities or rural water or sewer districts with engineering
11 reports or plans and specifications needed for construction or
12 repairs to achieve compliance with federal and state public water
13 supply or wastewater laws and regulations; ~~and~~

14 36. Contracts for annuities for structured settlements provided
15 for in Section 158 of Title 51 of the Oklahoma Statutes; and

16 37. Contracts entered into by the State Department of Education
17 with current or retired employees of Oklahoma public school
18 districts to assist the Department when the expertise and
19 qualifications of an Oklahoma certified educator are required, as
20 provided for in Section 1 of this act.

21 C. Pursuant to the terms of a contract the State Purchasing
22 Director enters into or awards, a state agency, common school,
23 municipality, rural fire protection district, county officer, or any
24 program contract, purchase, acquisition or expenditure that is not

1 subject to the provisions of The Oklahoma Central Purchasing Act,
2 may, unless acting pursuant to a contract with the state that
3 specifies otherwise, make use of statewide contracts and the
4 services of the Purchasing Division and the State Purchasing
5 Director. Any political subdivision or rural fire protection
6 district may designate the State Purchasing Director as its agent
7 for any acquisition from a statewide contract or otherwise available
8 to the state.

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

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

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

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20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
21 04/11/2017 - DO PASS, As Coauthored.

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