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February 15, 2017

AS AMENDED

SENATE BILL NO. 45

By: Sharp

[educator contracts - State Department of Education
- acquisitions - exemption - codification - effective
date -

~~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 3-104.8 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Subject to the availability of funds, the State Department of Education shall be authorized to directly contract with educators who are current or retired employees of Oklahoma public school districts, for services to assist the Department as may be necessary when such services require the expertise and qualifications of an Oklahoma certified educator.

B. The contract shall not:

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

2. Be included in the calculation of the educator's salary for purposes of meeting the district or statutory minimum salary

1 schedule or for purposes of calculating Teachers' Retirement System
2 of Oklahoma contributions or benefits.

3 SECTION 2. AMENDATORY 74 O.S. 2011, Section 85.12, as
4 last amended by Section 1, Chapter 76, O.S.L. 2016 (74 O.S. Supp.
5 2016, Section 85.12), is amended to read as follows:

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

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

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

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

1 agreement or contract with any other entity resulting in delivery of
2 intermediate or finished products to the entity purchasing or using
3 the products shall be subject to the provisions of The Oklahoma
4 Central Purchasing Act;

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

16 4. Utility services regulated by a state or federal regulatory
17 commission, or by municipal ordinance, or by an Indian Tribal
18 Council;

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

3 6. Contracts for custom harvesting by the Department of
4 Corrections for the Department or its institutions;

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

8 8. Acquisitions by the Oklahoma Municipal Power Authority;

9 9. Acquisitions by the Grand River Dam Authority;

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

13 11. Acquisitions by the Oklahoma Ordnance Works Authority, the
14 Northeast Oklahoma Public Facilities Authority, or the Midwestern
15 Oklahoma Development Authority;

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

21 13. Expenditure of monies appropriated to the State Board of
22 Education for Local and State Supported Financial Support of Public
23 Schools, except monies allocated therefrom for the Administrative
24 and Support Functions of the State Department of Education;

1 14. Expenditure of monies appropriated to the State Department
2 of Rehabilitation Services for educational programs or educational
3 materials for the Oklahoma School for the Blind and the Oklahoma
4 School for the Deaf;

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

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

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

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

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

23 20. Purchases of pharmaceuticals available through a multistate
24 or multigovernmental contract if such pharmaceuticals are or have

1 been on state contract within the last fiscal year, and the terms of
2 such contract are more favorable to the state or agency than the
3 terms of a state contract for the same products, as determined by
4 the State Purchasing Director. The state entity designated by law,
5 as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes,
6 shall participate in the purchase of pharmaceuticals available
7 through such contracts;

8 21. Contracts for managed health care services entered into by
9 the state entity designated by law or the Department of Human
10 Services, as specified in paragraph 1 of subsection A of Section
11 1010.3 of Title 56 of the Oklahoma Statutes;

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

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

22 24. Acquisitions by the Oklahoma Energy Resources Board;

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1 25. Acquisitions of clothing for juveniles in the custody of
2 the Office of Juvenile Affairs and acquisitions of food for group
3 homes operated by the Office of Juvenile Affairs;

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

7 27. Acquisitions by the Department of Securities to
8 investigate, initiate, or pursue administrative, civil, or criminal
9 proceedings involving potential violations of the acts under the
10 Department's jurisdiction and acquisitions by the Department of
11 Securities for its investor education program;

12 28. Acquisitions by the Native American Cultural and
13 Educational Authority and acquisitions by the Oklahoma Department of
14 Commerce to assist the Native American Cultural and Educational
15 Authority pursuant to Section 5017 of this title;

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

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

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

4 32. Acquisitions by the Oklahoma Correctional Industries and
5 the Agri-Services programs of the Department of Corrections of raw
6 materials, component parts and other products, any equipment
7 excluding vehicles, and any services excluding computer consultant
8 services used to produce goods or services for resale and for the
9 production of agricultural products;

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

15 34. Contracts negotiated by the Office of Juvenile Affairs with
16 designated Youth Services Agencies and the Oklahoma Association of
17 Youth Services, or another Oklahoma nonprofit corporation whose
18 membership consists solely of Youth Services Agencies and of whom at
19 least a majority of Youth Services Agencies are members, pursuant to
20 the provisions of Section 2-7-306 of Title 10A of the Oklahoma
21 Statutes and contracts entered into by the Department of Human
22 Services pursuant to Section 1-9-110 of Title 10A of the Oklahoma
23 Statutes with designated Youth Services Agencies;

1 35. Contracts not to exceed One Hundred Thousand Dollars
2 (\$100,000.00) entered into by the Department of Environmental
3 Quality for engineering services to assist qualifying small
4 municipalities or rural water or sewer districts with engineering
5 reports or plans and specifications needed for construction or
6 repairs to achieve compliance with federal and state public water
7 supply or wastewater laws and regulations; ~~and~~

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

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

15 C. Pursuant to the terms of a contract the State Purchasing
16 Director enters into or awards, a state agency, common school,
17 municipality, rural fire protection district, county officer, or any
18 program contract, purchase, acquisition or expenditure that is not
19 subject to the provisions of The Oklahoma Central Purchasing Act,
20 may, unless acting pursuant to a contract with the state that
21 specifies otherwise, make use of statewide contracts and the
22 services of the Purchasing Division and the State Purchasing
23 Director. Any political subdivision or rural fire protection
24 district may designate the State Purchasing Director as its agent

1 for any acquisition from a statewide contract or otherwise available
2 to the state.

3 D. The State Purchasing Director shall make periodic audits of
4 the purchasing procedures of the Oklahoma Ordnance Works Authority,
5 the Northeast Oklahoma Public Facilities Authority, the University
6 Hospitals Authority, and the Midwestern Oklahoma Development
7 Authority to ensure that the procedures are being followed.

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
14 February 15, 2017 - DO PASS AS AMENDED
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