

1 **SENATE FLOOR VERSION**

2 February 22, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 672

By: Fields of the Senate

and

Watson of the House

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7
8 **[state government - enterprise agency - waiving**
9 **certain provisions - written report - codification -**
10 **effective date]**

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

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3318 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 The Governor may, by executive order, designate a state agency
17 as an enterprise agency. Prior to such designation the agency shall
18 demonstrate that it will employ internal procedures to ensure
19 transparency of processes subject to the waivers or suspensions
20 provided herein. The designation of an enterprise agency shall be
21 for a period of five (5) years. The purpose of designating an
22 enterprise agency is to grant the agency relief from certain
23 statutory provisions or agency rules, as provided by this act, upon
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1 a prior showing of projected savings or increased efficiency
2 resulting from such relief.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3319 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Prior to each agency's fiscal year, or as soon thereafter as
7 possible, the Governor and each director of a designated enterprise
8 agency shall enter into an annual enterprise agreement which shall
9 set forth measurable organizational and budgetary goals for the
10 director in key operational areas of the agency.

11 B. The annual performance agreement shall include the internal
12 procedures that the designated enterprise agency will employ to
13 ensure transparency of processes subject to the waivers or
14 suspensions provided herein.

15 C. The annual performance agreement shall be made public and a
16 copy of the agreement shall be submitted to the House of
17 Representatives and the Senate.

18 SECTION 3. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3320 of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

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

1 B. An enterprise agency may waive personnel statutes and rules
2 relating to hiring and pay and may exercise the authority granted to
3 the Office of Management and Enterprise Services concerning
4 employees of the enterprise agency.

5 C. No employee currently serving as a permanent classified
6 employee of the enterprise agency will be forced to waive any rights
7 or benefits the employee may have as a member of the permanent
8 classified service nor may performance-based raises for permanent
9 classified members be conditioned upon surrendering classified
10 status.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3321 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 An enterprise agency may waive any provision of or
15 administrative rule created under the Oklahoma Central Purchasing
16 Act regarding procurement, fleet management, printing and copying,
17 or maintenance of buildings and grounds, and may exercise the
18 authority of the Office of Management and Enterprise Services as it
19 relates to the physical resources of the state. The enterprise
20 agency shall observe internal procurement and bidding procedures and
21 keep records of contracts and acquisitions.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3322 of Title 74, unless there
24 is created a duplication in numbering, reads as follows:

1 An enterprise agency may waive any provision of or
2 administrative rule created under the Public Competitive Bidding
3 Act. The enterprise agency shall observe internal procurement and
4 bidding procedures and keep records of contracts and acquisitions.

5 SECTION 6. 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 An enterprise agency may waive any provision of law requiring
9 the person to whom a contract is awarded for the construction or
10 repair or a public or private building, structure or improvement on
11 public real property, to furnish any bond or letter of credit.

12 SECTION 7. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3324 of Title 74, unless there
14 is created a duplication in numbering, reads as follows:

15 An enterprise agency may waive any provision of or
16 administrative rule created under the Information Technology
17 Consolidation and Coordination Act.

18 SECTION 8. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3325 of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

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

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

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

8 a. the application of the rule poses an undue financial
9 hardship on the agency,

10 b. the waiver or suspension from the requirements of a
11 rule in the specific case would not prejudice the
12 substantial legal rights of any person,

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

17 d. the waiver or suspension would not result in a
18 violation of due process, a violation of state or
19 federal law or a violation of the state or federal
20 constitution;

21 2. If an enterprise agency proposes to grant a waiver or
22 suspension, the enterprise agency shall draft the waiver or
23 suspension so as to provide the narrowest exception possible to the
24 provisions of the rule and may place any condition on the waiver or

1 suspension that the enterprise agency finds desirable to protect the
2 public health, safety and welfare. The enterprise agency shall then
3 submit the waiver or suspension to the Governor;

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

8 a. The waiver or suspension shall become effective within
9 thirty (30) days from the date of submission if the
10 Governor approves or takes no action concerning the
11 proposed waiver or suspension.

12 b. The Governor may delay the effective date of the
13 waiver or suspension for up to sixty (60) days, but if
14 no further action is taken to rescind the waiver or
15 suspension, the proposed waiver or suspension shall
16 become effective on the date to which the waiver or
17 suspension was delayed.

18 c. The Governor shall notify the enterprise agency in
19 writing of the action concerning the proposed waiver
20 or suspension.

21 d. Rejection of the waiver or suspension by the Governor
22 shall require that the enterprise agency fully comply
23 with the rule; and
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1 4. Copies of the grant or denial of a waiver or suspension
2 under this subsection shall be filed and made available to the
3 public by the agency.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3326 of Title 74, unless there
6 is created a duplication in numbering, reads as follows:

7 Each enterprise agency shall submit a written report to the
8 Governor and the Legislature by December 31 of each year summarizing
9 the activities of the enterprise agency for the agency's preceding
10 fiscal year. The report shall include information relating to the
11 actions taken by the agency to the authority granted by this act.

12 SECTION 10. This act shall become effective November 1, 2017.

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
14 February 22, 2017 - DO PASS AS AMENDED
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