

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☒ FLOOR AMENDMENT

No. 1

☐ COMMITTEE AMENDMENT


(Date)

I move to amend Senate Bill No. 1567, by the attached floor substitute (request #3307) for the title, enacting clause and entire body of the measure.

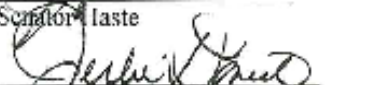
Submitted by:

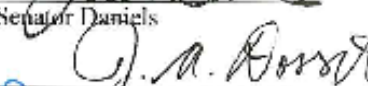

Senator Paul Rosino

I hereby grant permission for the floor substitute to be adopted.


Senator Rosino, Chair (required)

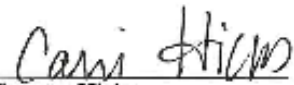

Senator Haste


Senator Daniels



Senator Dossell (J.A.)



Senator Garvin


Senator Trent, President Pro Tempore


Senator Hicks


Senator Pugh


Senator Simpson


Senator Standridge

Senator Young

Senator McCartney, Majority Floor Leader

Note: Health and Human Services committee majority requires six (6) members' signatures.

Rosino-BG-FS-SB1567

3/9/2022 4:31 PM

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(Floor Amendments Only)

Date and Time Filed:

3-10-22

9:34 am

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 1567

By: Rosino of the Senate

and

Bush of the House

FLOOR SUBSTITUTE

[State Use Committee - State Purchasing Director to
administer - entity responsible for procurement
schedule - contracts to certain organizations -
Revolving Fund - fair market pricing - distribution
agency - product or service at a certain price -
municipalities and counties to make certain purchases
from qualified organizations - annual reporting -
repealer - codification - effective date]

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 3001, is
amended to read as follows:

Section 3001. A. There is hereby created in the Office of
Management and Enterprise Services ~~a committee~~ an advisory council
to be known as the "State Use ~~Committee~~ Advisory Council". The
~~Committee Council~~ shall consist of seven (7) members ~~and one~~
~~nonvoting member as follows:~~

1. A private citizen conversant with the employment needs of
people with ~~severe~~ significant disabilities who shall be appointed

1 by and serve at the pleasure of the Governor to act as an advocate
2 for the employment needs of people with ~~severe~~ significant
3 disabilities;

4 2. The Director of the Office of Management and Enterprise
5 Services or designee;

6 3. The Director of the ~~Division of Services for the Blind and~~
7 ~~Visually Impaired of the State~~ Department of Rehabilitation
8 Services, or designee;

9 4. ~~The past president of Oklahoma Community-Based Providers or~~
10 ~~designee to serve for a one-year period, who may be reappointed by~~
11 ~~the succeeding president~~ One member who shall be a state use
12 provider who shall be appointed by the President Pro Tempore of the
13 Senate;

14 5. An individual or a parent or guardian of an individual with
15 ~~severe~~ significant disabilities who participates in vocational
16 programming through a ~~sheltered environment facility~~ qualified non-
17 profit agency for individuals with disabilities, to be selected by
18 the Committee appointed by the Speaker of the House of
19 Representatives;

20 6. The Director of Human Services, or designee; and

21 7. ~~A certified procurement officer from any state agency~~
22 ~~appointed by the State Purchasing Director, selected to represent~~
23 ~~the customer agencies of the State of Oklahoma; and~~
24

1 ~~8. As a nonvoting member, a~~ A person employed by the Office of
2 Management and Enterprise Services Central Purchasing Division as a
3 contracting officer ~~in the purchasing division~~, appointed by the
4 State Purchasing Director ~~with the advice of the Committee and~~
5 ~~designated specifically to solicit, develop, and negotiate contracts~~
6 ~~with agencies and individuals.~~

7 ~~B. The Committee shall elect from among its membership a Chair~~
8 ~~and a Vice Chair who shall both serve for a period of one (1) year.~~

9 ~~C. The private citizen~~ citizens on the ~~Committee~~ Council shall
10 serve for a period of two (2) years and may be reappointed by the
11 appointing authority. Any private citizen appointed pursuant to
12 this section to fill a vacancy occurring prior to the expiration of
13 the term for which the predecessor was appointed shall be appointed
14 only for the remainder of the term.

15 ~~D. Any member of the Committee shall be prohibited from voting~~
16 ~~on any issue in which the member has an interest~~ The State Use
17 Advisory Council shall meet a minimum of twice a year for the
18 purpose of exchanging ideas to market and improve the State Use
19 Program.

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3001.1 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:

23 The State Purchasing Director, under the supervision of the
24 Director of the Office of Management and Enterprise Services, shall

1 have authority and responsibility to administer and oversee the
2 State Use Program including but not limited to:

- 3 1. Promulgating rules relating to the program;
- 4 2. Qualification of organizations participating in the program;
- 5 3. Contracting with qualified organizations for products and
6 services to be included on the procurement schedule;
- 7 4. Determination of fair market price of all products and
8 services to be included on the procurement schedule; and
- 9 5. Designation and publication of a procurement schedule.

10 SECTION 3. AMENDATORY 74 O.S. 2021, Section 3003, is
11 amended to read as follows:

12 Section 3003. As used in ~~this act~~ Section 3001 et seq. of this
13 title:

14 1. "Blind person" means a person having a visual acuity not to
15 exceed 20/200 in the better eye, with correcting lenses, or visual
16 acuity greater than 20/200 but with limitation in the field of
17 vision such that the widest diameter of visual field subtends an
18 angle no greater than twenty (20) degrees;

19 2. "~~Committee~~ Council" means the State Use ~~Committee~~ Advisory
20 Council;

21 3. "Qualified nonprofit agency for ~~the severely handicapped~~
22 employment of people with significant disabilities" means a
23 nonprofit agency÷
24

- a. employing ~~severely disabled~~ persons with significant disabilities who constitute at least seventy-five percent (75%) of the ~~personnel~~ direct labor hours engaged in direct production, manufacturing, processing and/or assembling of products or services offered by the agency for procurement by this state ~~and~~ or who meet the definition of ~~"blind person"~~ blind person as provided for in paragraph 1 of this section, or
- b. which is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;

4. ~~"Severely disabled person"~~ "Person with significant disabilities" means an individual with a physical or mental disability constituting a substantial handicap to employment and preventing the person from engaging in normal competitive employment ~~and/or~~ includes any blind person;

5. "Qualified organization" means a blind person, ~~or~~ or qualified nonprofit agency for the ~~severely handicapped, or severely disabled person~~ employment of people with significant disabilities contracting to supply goods or services;

6. "Manufactured" means goods made by manual labor;

7. "Produced" means to have brought into existence or created from raw materials;

1 8. "Processed" means the action of taking something through an
2 established and mostly routine set of procedures or steps to
3 substantially convert a potential product from one form to another.
4 This action involves a sequence of multiple steps each requiring a
5 distinct decision-making process to evolve a potential product to
6 the next step; and

7 9. "Assemble" means to put or fit together or put together the
8 parts of a potential product;

9 10. "Central nonprofit agency (CNA)" means a qualified 501(c)3
10 nonprofit entity meeting the qualifications in the Request for
11 Procurement (RFP) issued by the Office of Management and Enterprise
12 Services selected to administer and oversee the State Use Program;
13 and

14 11. "Procurement schedule" means a designated schedule of
15 products and services currently approved by the Office of Management
16 and Enterprise Services Central Purchasing Division as suitable to
17 procure from qualified organizations participating in the State Use
18 Program.

19 SECTION 4. AMENDATORY 74 O.S. 2021, Section 3004, is
20 amended to read as follows:

21 Section 3004. The ~~Committee~~ Office of Management and Enterprise
22 Services Central Purchasing Division shall designate and distribute
23 by regulation a schedule, hereinafter referred to as the procurement
24 schedule, of the products directly manufactured, produced, processed

1 or assembled or services directly performed, offered or provided by
2 any ~~severely disabled~~ person with significant disabilities or
3 qualified nonprofit agency for the ~~severely disabled~~ employment of
4 people with significant disabilities, as defined ~~by this act in~~
5 Section 3003 of this title, which the ~~Committee~~ State Purchasing
6 Director determines are suitable for procurement by the state. The
7 products and services on contract will be published on the
8 procurement schedule and will be designated as mandatory. ~~No state~~
9 ~~agency shall purchase, pursuant to Section 3007 of this title,~~
10 ~~products or services purporting to be made by severely disabled~~
11 ~~persons in workshops which are not certified by the Committee or by~~
12 ~~severely disabled individuals who are not certified by the Committee~~
13 The Office of Management and Enterprise Services Central Purchasing
14 Division shall have the authority to qualify organizations for
15 inclusion in the State Use Program, monitor qualified organizations
16 for continued compliance to remain active in the program, and remove
17 organizations from the program. Central Purchasing shall have the
18 authority to award and manage contracts to the qualified
19 organizations as well as to renegotiate or cancel contracts when
20 appropriate.

21 SECTION 5. AMENDATORY 74 O.S. 2021, Section 3004.1, is
22 amended to read as follows:

23 Section 3004.1. ~~A one-percent fee of any contract for products~~
24 ~~or services of the severely disabled shall be assessed against the~~

1 ~~qualified organization and~~ The State Purchasing Director may enter
2 or award contracts for products or services to a qualified
3 organization as defined in Section 3003 of this title and assess a
4 contract management fee or levy. The contract management fee or
5 levy shall be deposited in the State Use ~~Committee~~ Advisory Council
6 Revolving Fund, as created in Section 3004.2 of this title, for the
7 salary, administrative costs, annual trainings, professional
8 association memberships, qualified agency operational improvement
9 grants, periodic economic advantage study, Annual Report
10 development, and other expenses incurred by the Central Purchasing
11 Division of the Office of Management and Enterprise Services for
12 promoting goods and services provided by qualified organizations.

13 SECTION 6. AMENDATORY 74 O.S. 2021, Section 3004.2, is
14 amended to read as follows:

15 Section 3004.2. There is hereby created in the State Treasury a
16 revolving fund for the Office of Management and Enterprise Services
17 to be designated the "State Use ~~Committee~~ Advisory Council Revolving
18 Fund". The fund shall be a continuing fund, not subject to fiscal
19 year limitations, and shall consist of all proceeds from the ~~one-~~
20 ~~percent~~ management fee or levy on contracts for purchases of
21 products or services of ~~the severely disabled~~ people with
22 significant disabilities, as provided in Section 3004.1 of this
23 title. The fund shall be invested in any of the types of
24 instruments in which the State Treasurer is authorized by law to

1 invest. Interest earned shall be retained by the fund. All monies
2 accruing to the credit of the fund are hereby appropriated and may
3 be budgeted and expended by the Office of Management and Enterprise
4 Services for the salary and other administrative expenses of the
5 buyer and clerical and technical support in the Central Purchasing
6 Division of the Office of Management and Enterprise Services
7 responsible for contracts for the products and services of ~~the~~
8 ~~severely disabled~~ people with significant disabilities and expenses
9 the Office incurs to support ~~Committee~~ State Use operations
10 including services of the Centralized Non-Profit Agency (CNA).
11 Expenditures from the fund shall be made upon warrants issued by the
12 State Treasurer against claims filed as prescribed by law with the
13 Director of the Office of Management and Enterprise Services for
14 approval and payment.

15 SECTION 7. AMENDATORY 74 O.S. 2021, Section 3005, is
16 amended to read as follows:

17 Section 3005. The ~~Committee~~ Office of Management and Enterprise
18 Services Central Purchasing Division shall determine the fair market
19 price of all products and services included in the procurement
20 schedule and shall revise such prices in accordance with changing
21 market conditions; provided, however, a change in price shall not be
22 effective prior to the expiration of ~~fifteen (15)~~ thirty (30) days
23 from the date on which such change is ~~made by the Committee~~
24 approved. Approved fair market prices shall be reflected on State

1 Use contracts and procurement schedules within thirty (30) days of
2 approval and distribution.

3 SECTION 8. AMENDATORY 74 O.S. 2021, Section 3006, is
4 amended to read as follows:

5 Section 3006. The ~~Committee~~ State Purchasing Director may
6 ~~designate contract with~~ a central nonprofit agency to facilitate
7 the:

8 1. Management of the day-to-day operations of the program;

9 2. The facilitation, promotion, and the distribution of orders
10 of the state for products or services on the procurement schedule
11 among qualified nonprofit agencies for people with ~~severe~~
12 significant disabilities;

13 3. Scheduling and conducting annual training sessions;

14 4. Publishing the approved State Use Procurement Schedule;

15 5. Promotion of the State Use Program through development and
16 distribution of program marketing material, promotion of program
17 through continued contact with current and future customers; and

18 6. All other duties assigned by the RFP through the Office of
19 Management and Enterprise Services.

20 SECTION 9. AMENDATORY 74 O.S. 2021, Section 3007, is
21 amended to read as follows:

22 Section 3007. A. Whenever ~~the State of Oklahoma~~ this state or
23 any of its agencies intends to procure any product or service
24 included in the procurement schedule, that entity shall secure the

1 product or service from a qualified nonprofit agency providing
2 employment to people with ~~severe~~ significant disabilities at the
3 fair market price determined by the ~~Committee~~ Office of Management
4 and Enterprise Services Central Purchasing Division, if the product
5 or service is available within the period required by the entity and
6 meets the specifications of the entity.

7 B. An agency of this state shall not evade the intent and
8 meaning of this section by slight variations from standards adopted
9 by the Office of Management and Enterprise Services Central
10 Purchasing Division.

11 C. Provided, the requirements of this section shall not apply
12 to the procurement of janitorial services by the Oklahoma State
13 Bureau of Investigation. The Bureau shall conduct background
14 investigations and national criminal history record checks on
15 companies and individuals with which it contracts to provide
16 janitorial services.

17 ~~D. When the fair market price for a product or service approved~~
18 ~~by the Committee exceeds a current market price for the same product~~
19 ~~or service, and such lower market price has been verified by the~~
20 ~~agency through compliance with the fair market analysis process~~
21 ~~approved by the Office of Management and Enterprise Services, the~~
22 ~~state use contracting officer may grant a temporary exception to a~~
23 ~~requesting agency so that the agency may purchase the product or~~
24 ~~service from the vendor offering the lower market price. The~~

1 ~~temporary exception shall automatically expire when a new fair~~
2 ~~market price is established by the State Use Committee~~ Any
3 municipality or county agency of this state is authorized to
4 purchase products and services from any qualified organization as
5 defined in Section 3003 of this title. The qualified organization
6 shall be able to meet the needs and specifications for the products
7 or services required by the purchasing body at the fair market
8 price.

9 SECTION 10. AMENDATORY 74 O.S. 2021, Section 3008, is
10 amended to read as follows:

11 Section 3008. A. Nothing in ~~Sections~~ Section 3001 et seq. of
12 this title pursuant to purchases of products and services from
13 people with ~~severe~~ significant disabilities shall be construed to
14 prohibit any department or agency of the state from manufacturing or
15 supplying its own products or services for its own use.
16 Procurements made pursuant to ~~this act~~ Section 3001 et seq. of this
17 title shall not be subject to the competitive bid requirements of
18 the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this
19 title.

20 B. The Office of Management and Enterprise Services Central
21 Purchasing Division shall require an annual qualified organization
22 pricing review for all products and services approved and designated
23 on the procurement schedule. The method of the pricing review shall
24 be defined in the promulgated rules.

1 C. When the fair market price for a product or service approved
2 by the Office of Management and Enterprise Services Central
3 Purchasing Division exceeds a current market price for the same
4 product or service, and such lower market price has been verified by
5 the agency through compliance with the fair market analysis process
6 approved by the Office of Management and Enterprise Services Central
7 Purchasing Division, the State Use contracting officer may grant a
8 temporary exception to a requesting agency so that the agency may
9 purchase the product or service from the supplier offering the lower
10 market price.

11 SECTION 11. AMENDATORY 74 O.S. 2021, Section 3009, is
12 amended to read as follows:

13 Section 3009. A. ~~The State Use Committee~~ Office of Management
14 and Enterprise Services Central Purchasing Division shall prescribe
15 rules to carry out the purposes of the provisions of Sections 3001
16 through 3009 of this title.

17 B. The rules shall include requirements for:

18 1. Publishing a catalog listing goods and services and jobs
19 that ~~workshops~~ qualified agencies employing people with significant
20 disabilities can provide the state, annually; and

21 2. Conducting a minimum of ~~six~~ two meetings per year of the
22 State Use Council, in compliance with the Oklahoma Open Meeting Act,
23 Section 301 et seq. of Title 25 of the Oklahoma Statutes;

24 ~~3. Making available to contractors the minutes of all meetings;~~

1 ~~4. Notifying contractors at least ten (10) days prior to~~
2 ~~meeting dates. Meetings shall be called by the Committee Chair; and~~

3 ~~5. Establishing guidelines by which a vendor may file a~~
4 ~~grievance.~~

5 ~~C. The Committee shall report any violations of the intent of~~
6 ~~the laws to the Attorney General's office within thirty (30) days of~~
7 ~~their determination of such violations.~~

8 ~~D. C.~~ The Committee shall file an Annual Report On an annual
9 basis, the Office of Management and Enterprise Services shall within
10 sixty (60) days after the close of the legislative fiscal year,
11 transmit a strategic plan for the State Use Program ~~with~~ to the
12 President Pro Tempore of the Senate, the Speaker of the House of
13 Representatives and the Governor.

14 SECTION 12. REPEALER 74 O.S. 2021, Section 3010, is
15 hereby repealed.

16 SECTION 13. This act shall become effective November 1, 2022.

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18 58-2-3307 BG 3/10/2022 1:07:34 PM
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