

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 672

By: Fields

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6 AS INTRODUCED

7 An Act relating to state government; authorizing the  
8 Governor to designate certain state agency an  
9 enterprise agency; requiring certain procedures  
10 before designation; providing for duration of  
11 designation; stating purpose; providing for annual  
12 enterprise agreement to set certain goal; requiring  
13 certain internal procedures in enterprise agreement;  
14 requiring agreement to be published and sent to  
15 certain entities; prohibiting certain limitations  
16 regarding pay grade assigned to certain employees;  
17 authorizing waiver of certain statutes and rules;  
18 prohibiting required waiver of certain persons;  
19 authorizing the enterprise agency to waive provisions  
20 of the Oklahoma Central Purchasing Act; authorizing  
21 enterprise agency to waive provisions of the Public  
22 Competitive Bidding Act; authorizing enterprise  
23 agency to waive certain provisions of law regarding  
24 certain construction and repair standards;  
authorizing the enterprise agency to waive certain  
provisions of law regarding the Information  
Technology Consolidation and Coordination Act;  
setting procedures for waiving certain provisions of  
certain administrative rules; setting time frame for  
certain waiver or suspension; requiring report;  
requiring enterprise agency to submit written report  
annually; providing for terms of reporting; providing  
for codification; and providing an effective date.

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22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:  
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1           SECTION 1.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3318 of Title 74, unless there  
3 is created a duplication in numbering, reads as follows:

4           The Governor may, by executive order, designate a state agency  
5 as an enterprise agency. Prior to such designation the agency shall  
6 demonstrate that it will employ internal procedures to ensure  
7 transparency of processes subject to the waivers or suspensions  
8 provided herein. The designation of an enterprise agency shall be  
9 for a period of five (5) years. The purpose of designating an  
10 enterprise agency is to grant the agency relief from certain  
11 statutory provisions or agency rules, as provided by this act, upon  
12 a prior showing of projected savings or increased efficiency  
13 resulting from such relief.

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

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

22           B. The annual performance agreement shall include the internal  
23 procedures that the designated enterprise agency will employ to  
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1 ensure transparency of processes subject to the waivers or  
2 suspensions provided herein.

3 C. The annual performance agreement shall be made public and a  
4 copy of the agreement shall be submitted to the House of  
5 Representatives and the Senate.

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

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

13 B. An enterprise agency may waive personnel statutes and rules  
14 relating to hiring and pay and may exercise the authority granted to  
15 the Office of Management and Enterprise Services concerning  
16 employees of the enterprise agency.

17 C. No employee currently serving as a permanent classified  
18 employee of the enterprise agency will be forced to waive any rights  
19 or benefits the employee may have as a member of the permanent  
20 classified service nor may performance-based raises for permanent  
21 classified members be conditioned upon surrendering classified  
22 status.

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

4           An enterprise agency may waive any provision of or  
5 administrative rule created under the Oklahoma Central Purchasing  
6 Act regarding procurement, fleet management, printing and copying,  
7 or maintenance of buildings and grounds, and may exercise the  
8 authority of the Office of Management and Enterprise Services as it  
9 relates to the physical resources of the state. The enterprise  
10 agency shall observe internal procurement and bidding procedures and  
11 keep records of contracts and acquisitions.

12          SECTION 5.           NEW LAW           A new section of law to be codified  
13 in the Oklahoma Statutes as Section 3322 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 Public Competitive Bidding  
17 Act. The enterprise agency shall observe internal procurement and  
18 bidding procedures and keep records of contracts and acquisitions.

19          SECTION 6.           NEW LAW           A new section of law to be codified  
20 in the Oklahoma Statutes as Section 3323 of Title 74, unless there  
21 is created a duplication in numbering, reads as follows:

22          An enterprise agency may waive any provision of law requiring  
23 the person to whom a contract is awarded for the construction or  
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1 repair or a public or private building, structure or improvement on  
2 public real property, to furnish any bond or letter of credit.

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

6 An enterprise agency may waive any provision of or  
7 administrative rule created under the Information Technology  
8 Consolidation and Coordination Act.

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

12 A. An enterprise agency may temporarily waive or suspend the  
13 provisions of any administrative rule if strict compliance with the  
14 rule impacts the ability of the enterprise agency to perform its  
15 duties in a more cost-efficient manner and the requirements of this  
16 subsection are met.

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

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

22 a. the application of the rule poses an undue financial  
23 hardship on the agency,

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1           b. the waiver or suspension from the requirements of a  
2           rule in the specific case would not prejudice the  
3           substantial legal rights of any person,

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

8           d. the waiver or suspension would not result in a  
9           violation of due process, a violation of state or  
10          federal law or a violation of the state or federal  
11          constitution;

12          2. If an enterprise agency proposes to grant a waiver or  
13          suspension, the enterprise agency shall draft the waiver or  
14          suspension so as to provide the narrowest exception possible to the  
15          provisions of the rule and may place any condition on the waiver or  
16          suspension that the enterprise agency finds desirable to protect the  
17          public health, safety and welfare. The enterprise agency shall then  
18          submit the waiver or suspension to the Governor;

19          3. The Governor shall review the proposed waiver or suspension  
20          and may either take no action, affirmatively approve the waiver or  
21          suspension, delay the effective date of the waiver or suspension or  
22          reject the waiver or suspension.

23               a. The waiver or suspension shall become effective within  
24               thirty (30) days from the date of submission if the

1 Governor approves or takes no action concerning the  
2 proposed waiver or suspension.

3 b. The Governor may delay the effective date of the  
4 waiver or suspension for up to sixty (60) days, but if  
5 no further action is taken to rescind the waiver or  
6 suspension, the proposed waiver or suspension shall  
7 become effective on the date to which the waiver or  
8 suspension was delayed.

9 c. The Governor shall notify the enterprise agency in  
10 writing of the action concerning the proposed waiver  
11 or suspension.

12 d. Rejection of the waiver or suspension by the Governor  
13 shall require that the enterprise agency fully comply  
14 with the rule; and

15 4. Copies of the grant or denial of a waiver or suspension  
16 under this subsection shall be filed and made available to the  
17 public by the agency.

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

21 Each enterprise agency shall submit a written report to the  
22 Governor and the Legislature by December 31 of each year summarizing  
23 the activities of the enterprise agency for the agency's preceding  
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1 fiscal year. The report shall include information relating to the  
2 actions taken by the agency to the authority granted by this act.

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