

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1775

By: Williams

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5
6 AS INTRODUCED

7 An Act relating to state government; creating the
8 Department of Central Services; making Division a
9 separate and distinct agency; directing Department
10 and Director to continue to exercise statutory
11 powers, duties, and responsibilities; providing for
12 succession to contractual rights and
13 responsibilities; requiring Director to adopt and
14 enforce certain rules and authorizing further
15 rulemaking authority; authorizing execution of
16 certain agreement; requiring consent of employees
17 prior to transfer; providing certain protections
18 relating to salary, leave, time earned, and benefits;
19 requiring transfer of personnel to be coordinated
20 with Office of Management and Enterprise Services;
21 requiring payment of certain expenses; abolishing
22 certain division within the Office of Management and
23 Enterprise Services upon completion of transfer;
24 directing certain coordination; providing for certain
transfers; amending 74 O.S. 2021, Sections 61.2,
85.3, 85.5, and 62 O.S. 2021, Section 34.3.1, which
relate to Department of Central Services; modifying
references to Department and Director; providing for
codification; and providing an effective date.

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 61.10 of Title 74, unless there
is created a duplication in numbering, reads as follows:

1 A. 1. There is hereby created the Department of Central
2 Services. The Governor shall appoint a Director of Department of
3 Central Services, by and with the advice and consent of the Senate,
4 who shall hold office at the pleasure of the Governor and shall
5 continue to serve until his or her successor is duly appointed and
6 is qualified. The salary of the Director of the Department of
7 Central Services shall be set by the Legislature.

8 2. The Director of the Department of Central Services, with the
9 approval of the Governor, shall employ and make the appointment of
10 such experts and assistants as may be necessary in the performance
11 of the Director's duties as required by law. No appointments to
12 positions shall be made in excess of the positions authorized by act
13 of the Legislature for the Office of Management and Enterprise
14 Services.

15 3. Beginning on the effective date of this act, the Department
16 of Central Services shall cease to be part of or a division of the
17 Office of Management and Enterprise and shall be deemed to be a
18 separate and distinct agency, to be known as the Department of
19 Central Services. The Department of Central Services and the
20 Director of the Department of Central Services shall continue to
21 exercise their statutory powers, duties, and contractual
22 responsibilities. All records, property, equipment, assets, monies,
23 financial interests, liabilities, matters pending, and funds of the
24 Department of Central Services as a Division of the Office of

1 Management and Enterprise Services shall be transferred to the
2 Department of Central Services.

3 4. The Department shall succeed to any contractual rights or
4 responsibilities incurred by the Department of Central Services
5 Division of the Office of Management and Enterprise Services.

6 5. Rules promulgated by the Department of Central Services
7 Division of the Office of Management and Enterprise Services that
8 are in effect on the effective date of this act shall be immediately
9 adopted and enforced by the Department and the Director of the
10 Department and shall maintain the authority to further promulgate
11 and enforce rules.

12 6. The Department and the Office of Management and Enterprise
13 Services may enter into an agreement for the transfer of personnel
14 from the Office of Management and Enterprise Services to the
15 Department. No employee shall be transferred to the Department
16 except on the freely given written consent of the employee. All
17 employees who are transferred to the Department shall not be
18 required to accept a lesser grade or salary than presently received.
19 All employees shall retain leave, sick, and annual time earned, and
20 any retirement and longevity benefits which have accrued during
21 their tenure with the Office of Management and Enterprise Services.
22 The transfer of personnel between the state agencies shall be
23 coordinated with the Office of Management and Enterprise Services.

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1 7. The expenses incurred by the Department as a result of the
2 transfer required by this subsection shall be paid by the Office of
3 Management and Enterprise Services.

4 8. The Department of Central Services Division within the
5 Office of Management and Enterprise Services shall be abolished by
6 the Office of Management and Enterprise Services after the transfer
7 has been completed.

8 9. The Office of Management and Enterprise Services shall
9 coordinate the transfer of records, property, equipment, assets,
10 funds, allotments, purchase orders, liabilities, outstanding
11 financial obligations, or encumbrances provided for in this
12 subsection.

13 SECTION 2. AMENDATORY 74 O.S. 2021, Section 61.2, is
14 amended to read as follows:

15 Section 61.2 Whenever the terms "Board of Affairs", "State
16 Board of Public Affairs", "Board" when used in reference to the
17 Board of Public Affairs, or "Office of Public Affairs", ~~or~~
18 ~~"Department of Central Services"~~ appear in the Oklahoma Statutes
19 they shall mean the Office of Management and Enterprise Services.
20 Whenever the term "Director of Public Affairs" appears in the
21 Oklahoma Statutes it shall mean the Director of the Office of
22 Management and Enterprise Services. ~~Whenever the term "Director of~~
23 ~~Central Services" appears in the Oklahoma Statutes it shall mean the~~

1 ~~Director of the Office of Management and Enterprise Services or~~
2 ~~designee.~~

3 SECTION 3. AMENDATORY 74 O.S. 2021, Section 85.3, is
4 amended to read as follows:

5 Section 85.3 A. There is hereby created and established in the
6 ~~Office of Management and Enterprise Services~~ Department of Central
7 Services a Purchasing Division, the administrative head of which
8 shall be the State Purchasing Director.

9 B. The Director of the ~~Office of Management and Enterprise~~
10 ~~Services~~ Department of Central Services shall hire the State
11 Purchasing Director. The State Purchasing Director shall:

12 1. Have a thorough knowledge of office practices and buying
13 procedures in volume purchasing; and

14 2. Be a graduate of an accredited college or university with at
15 least five (5) years' experience in commercial or governmental
16 purchasing, or, in lieu of such education, have at least ten (10)
17 years' experience in commercial or governmental purchasing.

18 C. The State Purchasing Director, with the approval of the
19 Director of the ~~Office of Management and Enterprise Services~~
20 Department of Central Services, may employ such personnel as may be
21 necessary to exercise authority and perform duties under the
22 Oklahoma Central Purchasing Act.

23 D. All activities of any state agency, department, or
24 institution relating to purchasing shall be under the direction of

1 the Purchasing Division unless otherwise provided by the Oklahoma
2 Central Purchasing Act.

3 E. The Purchasing Division shall provide qualified personnel to
4 assist the purchasing activities of state agencies, departments, and
5 institutions, as required by the Oklahoma Central Purchasing Act.

6 F. Each state agency, department, and institution shall
7 designate personnel to coordinate its purchasing functions with the
8 Purchasing Division.

9 G. The Purchasing Division may, if the needs of a state agency,
10 department, or institution are such as to so require, employ, and
11 establish a buyer within a state agency. The state agency shall pay
12 all expenses incurred for any buyer required to be placed within its
13 agency.

14 H. Except as provided in Section 34.36 of Title 62 of the
15 Oklahoma Statutes, no state agency subject to the Oklahoma Central
16 Purchasing Act shall have or maintain a purchasing section without
17 the prior approval in writing of the Purchasing Division unless
18 otherwise provided in the Oklahoma Central Purchasing Act nor shall
19 such purchasing section perform purchasing functions for another
20 state agency.

21 I. The Purchasing Division shall make acquisitions from
22 industries operated by the Department of Corrections pursuant to the
23 provisions of Section 549.1 of Title 57 of the Oklahoma Statutes.

24 J. None of the personnel authorized by this section shall:

1 1. Sell to or otherwise provide acquisitions to any state
2 agency subject to the Oklahoma Central Purchasing Act;

3 2. Be employees, partners, associates, officers, or
4 stockholders in or with any business entity that sells to or
5 otherwise provides acquisitions to any state agency subject to the
6 Oklahoma Central Purchasing Act;

7 3. Be employed in any of the positions authorized by this
8 section if a spouse or child owns any stock in any business entity
9 which sells to or otherwise provides acquisitions to any agency
10 subject to the Oklahoma Central Purchasing Act;

11 4. Be employed in any of the positions authorized by this
12 section if a relative within the third degree of consanguinity or
13 affinity sells to or otherwise provides acquisitions to any state
14 agency subject to the Oklahoma Central Purchasing Act or is
15 interested in any business entity which does so, except that such
16 relative, excluding a spouse or child, may own Twenty-five Thousand
17 Dollars (\$25,000.00) worth or less, or one percent (1%) or less,
18 whichever amount is the lesser amount, of the stock of a corporation
19 or any business entity which sells to or otherwise provides
20 acquisitions to any state agency subject to the Oklahoma Central
21 Purchasing Act; or

22 5. Violate applicable rules of the Ethics Commission
23 promulgated pursuant to Article XXIX of the Oklahoma Constitution
24 that relate to accepting gifts from a vendor or a vendor's agent.

1 SECTION 4. AMENDATORY 74 O.S. 2021, Section 85.5, is
2 amended to read as follows:

3 Section 85.5 A. Except as otherwise provided in this section,
4 the State Purchasing Director, under the supervision of the Director
5 of the ~~Office of Management and Enterprise Services~~ Department of
6 Central Services, shall have sole and exclusive authority and
7 responsibility for all acquisitions by state agencies. In order to
8 carry out the powers and duties of the Chief Information Officer and
9 the Information Services Division, the Chief Information Officer
10 shall have sole and exclusive authority and responsibility for all
11 acquisitions of information and telecommunications technology,
12 equipment, software, products and related peripherals and services
13 by state agencies. Public construction contracts are awarded
14 pursuant to Title 61 of the Oklahoma Statutes and are not subject to
15 the Oklahoma Central Purchasing Act.

16 B. Every state agency shall determine its own quantitative
17 needs for acquisitions and the general class or nature of the
18 acquisitions. The State Purchasing Director, after consultation
19 with the requisitioning state agency, shall have authority to
20 determine the particular brand, model or other specific
21 classification of each acquisition and to draft or invoke pursuant
22 to the Oklahoma Central Purchasing Act specifications establishing
23 the requirements for all necessary contracts or purchase orders.

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1 C. The Director of the ~~Office of Management and Enterprise~~
2 ~~Services~~ Department of Central Services shall have authority and
3 responsibility to promulgate rules in connection with provisions of
4 the Oklahoma Central Purchasing Act for:

5 1. The time, manner, authentication and form of making
6 requisitions for acquisitions;

7 2. Inspection, analysis and testing of acquisitions or samples
8 bidders submit prior to contract award;

9 3. The form and manner of submission for bids or proposals a
10 bidder submits and the manner of accepting and opening bids or
11 proposals;

12 4. The conditions under which the ~~Office of Management and~~
13 ~~Enterprise Services~~ Department of Central Services shall require
14 written contracts for acquisitions, the conditions under which
15 acquisitions may be made on an open account basis, and the
16 conditions and manner of negotiating such contracts;

17 5. Obtaining acquisitions produced by state institutions;

18 6. Conditions under which any of the rules herein authorized
19 may be waived;

20 7. The amounts of and deposits on any bond or other surety
21 required to be submitted with a bid or contract for the furnishing
22 of acquisitions and the conditions under which such bond or other
23 surety shall be required;

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1 8. The manner and conditions of delivery, which shall include
2 the designation of the common carrier of property to be used to
3 transport acquisitions whenever a common carrier is used, and the
4 acceptance, or rejection, including check of quantities, of any
5 acquisitions;

6 9. The form of any estimate, order or other information
7 required in connection with an acquisition;

8 10. State agency acquisitions not exceeding the acquisition
9 threshold amount requiring competitive bid to ensure
10 competitiveness, fairness, compliance with the Oklahoma Central
11 Purchasing Act and Section 3001 et seq. of this title, which relates
12 to the State Use Committee. The rules shall include separate
13 provisions based on acquisition amounts as follows:

14 a. state agencies shall make acquisitions not exceeding
15 Twenty-five Thousand Dollars (\$25,000.00), provided
16 the acquisition process is fair and reasonable and is
17 conducted pursuant to rules authorized pursuant to
18 this section, and

19 b. state agencies with certified procurement officers and
20 internal purchasing procedures found compliant by the
21 State Purchasing Director may make acquisitions in
22 excess of the fair and reasonable acquisition
23 threshold amount provided for in this section and not
24 exceeding Two Hundred Fifty Thousand Dollars

1 (\$250,000.00), pursuant to rules authorized by this
2 section;

3 11. Training by the State Purchasing Director of state agency
4 procurement officers;

5 12. Review and audit by the State Purchasing Director of state
6 agency acquisitions;

7 13. The conditions for increasing acquisition limits for state
8 agencies which have had a prior reduction in acquisition limit by
9 the Director of the ~~Office of Management and Enterprise Services~~
10 Department of Central Services;

11 14. Use of a state purchase card to make acquisitions;

12 15. Any other matter or practice which relates to the
13 responsibilities of the State Purchasing Director;

14 16. Conditions for determination and authorization of
15 acquisition threshold amounts of state agencies;

16 17. The form and manner of verification by suppliers that the
17 supplier is eligible to do business in the State of Oklahoma and has
18 obtained all necessary permits and licenses, pursuant to applicable
19 provisions of law; and

20 18. Payment procedure rules for state agencies to adhere to
21 regarding statewide contracts.

22 D. The State Purchasing Director shall provide training for
23 state agency procurement officials, and other procurement staff, and
24 is authorized to require retraining of such procurement personnel

1 found not to be in compliance with provisions of the Oklahoma
2 Central Purchasing Act or associated rules. The training may
3 include any matters related to state procurement practices. State
4 agency purchasing officials that demonstrate proficiency shall be
5 certified as "certified procurement officers" by the State
6 Purchasing Director and shall be authorized to make acquisitions
7 pursuant to provisions of the Oklahoma Central Purchasing Act and
8 associated rules. The State Purchasing Director may assess a fee to
9 state agencies for the training that does not exceed each state
10 agency's pro rata share of the costs the State Purchasing Director
11 incurs to provide the training.

12 E. The State Purchasing Director shall review state agency
13 acquisitions for the purposes of:

14 1. Ensuring state agency compliance with provisions of the
15 Oklahoma Central Purchasing Act;

16 2. Ensuring state agency compliance with rules promulgated by
17 the ~~Office of Management and Enterprise Services~~ Department of
18 Central Services pursuant to the Oklahoma Central Purchasing Act;

19 3. Ensuring state agency compliance with provisions of Section
20 3001 et seq. of this title pertaining to the State Use Committee;

21 4. Reporting any acquisition by any state agency found not to
22 be in compliance with those sections or rules to the Director of the
23 ~~Office of Management and Enterprise Services~~ Department of Central
24 Services;

1 5. A determination by the State Purchasing Director to reduce a
2 state agency's acquisition authority amount when the state agency is
3 found not to be in compliance with the Oklahoma Central Purchasing
4 Act or associated rules or requirements of the State Purchasing
5 Director pursuant to this section; and

6 6. A determination by the State Purchasing Director to increase
7 a state agency's acquisition authority amount after the agency cures
8 deficiencies in connection with a prior reduction in the authority
9 amount by the State Purchasing Director.

10 F. Based on written findings and when recommended by the State
11 Purchasing Director, the Director of the ~~Office of Management and~~
12 ~~Enterprise Services~~ Department of Central Services may:

13 1. Transmit written findings by the State Purchasing Director
14 to the State Auditor and Inspector for further investigation,
15 indicating purchasing procedures that do not conform to the Oklahoma
16 Central Purchasing Act or associated rules; or

17 2. Transmit to the Attorney General or the State Auditor and
18 Inspector for further investigation a report made by the State
19 Purchasing Director that the Director of the ~~Office of Management~~
20 ~~and Enterprise Services~~ Department of Central Services reasonably
21 believes indicates that an action that constitutes a criminal
22 violation pursuant to the Oklahoma Central Purchasing Act or other
23 laws has been taken by any state agency, state agency official,
24 bidder or supplier.

1 G. 1. Pursuant to the requirements of the Oklahoma Central
2 Purchasing Act, the State Purchasing Director shall have authority
3 to enter into any statewide, multistate or multigovernmental
4 contract. The state entity designated by law, as specified in
5 Section 1010.3 of Title 56 of the Oklahoma Statutes, shall
6 participate in the purchase of pharmaceuticals available through
7 such multistate or multigovernmental contracts entered into by the
8 State Purchasing Director.

9 2. Whenever it appears advantageous to the state or to any
10 state agency to purchase or otherwise acquire any acquisition which
11 may be offered for sale by the United States government or any
12 agency thereof, the State Purchasing Director may execute a contract
13 for the acquisition with the federal government or federal agency
14 and may also utilize contracts awarded by other governmental
15 agencies including, but not limited to, agencies of the United
16 States of America.

17 3. The State Purchasing Director may designate, for use by
18 state agencies, contracts described in this subsection and contracts
19 awarded on behalf of one or more state agencies.

20 4. Prior to exercising the authority to cancel a contract, the
21 State Purchasing Director may authorize renegotiation of an existing
22 contract with an incumbent supplier for the purposes of obtaining
23 more favorable terms for the state.

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1 5. The State Purchasing Director shall have the authority to
2 designate certain contracts for state agencies as statewide
3 contracts and mandatory statewide contracts. In order to carry out
4 the powers and duties of the Chief Information Officer and
5 Information Services Division, the Chief Information Officer shall
6 have the authority to designate certain information technology and
7 telecommunication contracts as statewide contracts and mandatory
8 statewide contracts and may negotiate consolidation contracts,
9 enterprise agreements and high technology system contracts in lieu
10 of or in conjunction with competitive bidding procedures to reduce
11 acquisition cost.

12 6. The State Purchasing Director may publish such
13 specifications relating to materials, supplies, equipment and
14 services to be acquired for the state as may best promote
15 competition and apprise potential suppliers of the type of product
16 desired.

17 H. 1. The State Purchasing Director may develop and test new
18 contracting policies, procedures and innovations that hold potential
19 for making state procurement more effective and efficient and
20 identify, and make recommendations to the Legislature of, any
21 appropriate changes in law. Such development and testing, proof of
22 concept, pilot project or other similar test shall not be considered
23 an acquisition subject to the Oklahoma Central Purchasing Act.

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1 2. The State Purchasing Director is authorized to explore and
2 investigate cost savings in energy, resource usage and maintenance
3 contracts and to identify and negotiate contract solutions
4 including, but not limited to, pilot projects to achieve cost
5 savings for this state.

6 I. The State Purchasing Director shall endeavor to satisfy
7 state agencies in terms of cost, quality and timeliness of the
8 delivery of acquisitions by using bidders who have a record of
9 successful past performance, promoting competition, minimizing
10 administrative operating costs and conducting business with
11 integrity, fairness and openness.

12 J. The State Purchasing Director shall undertake the following:

13 1. The use of electronic commerce pursuant to the Oklahoma
14 Online Bidding Act for solicitation, notification and other
15 purchasing processes;

16 2. Monitoring rules promulgated pursuant to the Oklahoma
17 Central Purchasing Act to ensure that the rules satisfy the
18 interests of the state, are clear and succinct and encourage
19 efficiency in purchasing processes;

20 3. A program to identify suppliers' performance records;

21 4. Development of criteria for the use of sealed bid
22 contracting procedures, negotiated contracting procedures, selection
23 of types of contracts, postaward administration of purchase orders
24

1 and contracts, addendums, termination of contracts and contract
2 pricing;

3 5. Continual improvement in the quality of the performance of
4 the Purchasing Division through training programs, management
5 seminars, development of benchmarks and key management indicators,
6 and development of standard provisions, clauses and forms;

7 6. The State Purchasing Director shall prescribe standardized
8 contract forms and all other forms or certifications requisite or
9 deemed necessary by the State Purchasing Director to effectuate the
10 provisions of the Oklahoma Central Purchasing Act and associated
11 rules;

12 7. Development of programs to improve customer relations
13 through training, improved communications and appointment of
14 technical representatives;

15 8. Provide for public two-way communication between procurement
16 officers and potential bidders who have questions regarding a
17 request for proposal or invitation to bid; and

18 9. Determine whether and to what extent information included in
19 a bid or similar offer is confidential and reject all requests to
20 disclose the information so designated.

21 K. The State Purchasing Director may utilize and authorize
22 state agencies to utilize reverse auctions to obtain acquisitions.

23 L. Prior to the award of a contract to a supplier, the State
24 Purchasing Director shall verify, pursuant to applicable provisions

1 of law, that the supplier is eligible to do business in this state
2 by confirming registration with the Secretary of State and franchise
3 tax payment status pursuant to Sections 1203 and 1204 of Title 68 of
4 the Oklahoma Statutes. The provisions of this subsection shall be
5 applicable only if the contract amount is Two Hundred Fifty Thousand
6 Dollars (\$250,000.00) or greater.

7 M. On an annual basis, the State Purchasing Director shall
8 transmit to the Governor, Speaker of the House of Representatives
9 and President Pro Tempore of the Senate a report documenting the
10 savings realized by each agency through the application of best
11 spend practices including the collection and tracking of spend data,
12 strategic sourcing programs and implementation of managed and
13 mandatory statewide contracts and include in the report information
14 regarding emergency acquisitions.

15 N. The acquisition threshold amount applicable to an
16 acquisition made pursuant to this act or associated rules shall not
17 apply to state agency purchases; provided, the State Purchasing
18 Director determines the agency has subject matter experts on staff
19 having the specialized expertise to purchase goods or services, the
20 agency possesses the necessary legal and procurement staff to
21 procure and monitor the contracts and provided the Director of the
22 ~~Office of Management and Enterprise Services~~ Department of Central
23 Services shall certify that the proposed purchase does not conflict
24 with consolidated statewide spend initiatives.

1 1. Nothing in this subsection shall give an agency authority to
2 issue statewide, multistate or multigovernmental contracts.

3 2. Agencies making purchases pursuant to this subsection shall:

4 a. be responsible for contracts awarded pursuant to this
5 subsection, which includes, but may not be limited to,
6 contract management, protest costs, all costs
7 connected with or incurred as a result of the
8 contract, including legal representation,

9 b. comply with rules and policies of the ~~Office of~~
10 ~~Management and Enterprise Services~~ Department of
11 Central Services, and

12 c. report contracts issued pursuant to this subsection to
13 the ~~Office of Management and Enterprise Services,~~
14 ~~Central Purchasing Division~~ Department of Central
15 Services, on a quarterly basis.

16 3. Purchases made in accordance with this subsection shall be
17 made pursuant to rules authorized by this section.

18 0. The State Purchasing Director, with approval by the Director
19 of the ~~Office of Management and Enterprise Services~~ Department of
20 Central Services, is authorized to make use of any state
21 laboratories for the tests and analyses authorized in this section
22 wherever practicable and to use private laboratories or the
23 laboratories of another government agency if it is impracticable to
24 use state laboratories. The State Purchasing Director is further

1 authorized to cooperate in test and analysis programs or agreements
2 with other states or the United States government and to accept
3 federal funds and funds donated by private endowments or foundations
4 for the purpose of participation in such testing programs.

5 SECTION 5. AMENDATORY 62 O.S. 2021, Section 34.3.1, is
6 amended to read as follows:

7 Section 34.3.1 A. The ~~Department of Central Services,~~ Office
8 of Personnel Management, Oklahoma State Employees Benefits Council
9 and the State and Education Employees Group Insurance Board are
10 consolidated into the Office of Management and Enterprise Services.
11 The Director of the Office of Management and Enterprise Services
12 shall assume all executive-level responsibilities for each agency
13 and shall function as and possess the powers of the agency director
14 for each consolidated agency as enumerated by existing statute. For
15 the purposes of this section the term "consolidated agencies" shall
16 mean the ~~Department of Central Services,~~ Office of Personnel
17 Management, Oklahoma State Employees Benefits Council and the State
18 and Education Employees Group Insurance Board. Any funds
19 appropriated to, in the possession of or allocated to any of the
20 consolidated agencies shall be deemed to be funds of the Office of
21 Management and Enterprise Services.

22 B. Upon request of the Director of the Office of Management and
23 Enterprise Services, the personnel of the consolidated agencies
24 shall deliver to the Office of Management and Enterprise Services

1 all books, papers, records and property of the consolidated
2 agencies.

3 C. All functions, powers, duties and obligations previously
4 assigned to each of the consolidated agencies are hereby transferred
5 to the Office of Management and Enterprise Services.

6 D. All rules, regulations, acts, orders, determinations and
7 decisions of the consolidated agencies pertaining to the functions
8 and powers herein transferred and assigned to the Office of
9 Management and Enterprise Services, in force at the time of such
10 transfer, assignment, assumption or devolution shall continue in
11 force and effect as rules, regulations, acts, orders, determinations
12 and decisions of the consolidated agencies until duly modified or
13 abrogated by the appropriate body or until otherwise provided by
14 law.

15 SECTION 6. This act shall become effective November 1, 2023.

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