

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 2400

BY: McCORKELL of the HOUSE

and

FISHER of the SENATE

COMMITTEE SUBSTITUTE

( STATE GOVERNMENT - DEPARTMENT OF COMMERCE -  
EXPENDITURES FROM THE MINORITY BUSINESS  
DEVELOPMENT PROGRAM FUND - AMENDING 47  
AND 74 O.S. 1991 - CODIFICATION -

EMERGENCY )

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1162, is amended to read as follows:

Section 1162. There is hereby created the Trucking Industry Self-Funded Research and Development Committee, hereinafter referred to as TISRAD Committee, consisting of the Lieutenant Governor of the State of Oklahoma, who shall serve as Chairman of the Committee, a member of the Oklahoma Corporation Commission to be determined by the Corporation Commission, a member of the Oklahoma Tax Commission to be determined by the Tax Commission, the Secretary of the Department of Transportation, the executive director of the Department of Commerce or his designee, and the Commissioner of the Department of Public Safety. Ex officio members of the TISRAD Committee shall be the Chairman of the Transportation Committee of the Oklahoma State Senate and the Chairman of the Transportation Committee of the Oklahoma House of Representatives. The TISRAD

Committee shall, in conjunction with the Associated Motor Carriers and the Motor Transportation Safety, Education and Economic Development Research Foundation, develop safety, education and economic development research programs for motor transportation including, but not limited to:

1. Share the Road Safety programs;
2. Heavy Truck Accident Analysis programs;
3. Trucking Industry Taxation and Development programs;
4. Economic Regulatory Research programs;
5. Highway and Bridge Use and Research programs; and
6. Vo-Tech Commercial Driver Training and Motor Transport

Professional Skills Program.

All data and analysis developed in the programs shall be made available in report form on an annual basis to the Governor, the Legislature and the various agencies of government concerned at no charge.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 2103, is amended to read as follows:

Section 2103. As used in the Export Trading Company Act:

1. "Export trade" means trade or commerce in goods or services produced in the United States which are exported, or in the course of being exported, from the United States to any other country;

2. "Goods" include, but are not limited to, manufactured products, natural resources, and agricultural products;

3. "Services" include, but are not limited to, accounting, amusement, architectural, automatic data processing, business, communications, construction, franchising and licensing, consulting, engineering, financial, insurance, legal, management, repair, tourism, training, and transportation services;

4. The term "export trade services" includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance,

transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States;

5. "Export trading company" means a corporation, whether operated for profit or as a nonprofit organization, which does business under the laws of this state and which is organized and operated principally for purposes of facilitating the export of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services. Any company with a significant portion of their business involving domestic sales or services shall not be construed to be an export trading company within the provisions of the Export Trading Company Act;

6. "Bank" means any bank authorized by the laws of this state to engage in the banking business; ~~and~~

7. "Director" means the Director of the Oklahoma Department of Commerce; and

8. "Commission" means the Oklahoma Tax Commission.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 2104, is amended to read as follows:

Section 2104. The Director may:

1. establish a network of contacts among those public and private organizations which provide information, technical assistance and financial support for exporting;

2. assemble, publish and disseminate information to exporters, located within this state, regarding export opportunities, techniques of exporting, sources of public and private export assistance and sources of export related financing;

3. organize, host and participate in seminars and other forums designed to disseminate information and technical assistance

regarding exporting and export related financing to exporters located within this state; and

4. provide individual firms and agricultural enterprises with information and technical assistance related to exporting and export financing; ~~and~~

~~5. review and approve applications from export trading companies which seek to qualify for exemption from state corporate income and franchise taxes pursuant to Sections 6 and 7 of this act.~~

SECTION 4. AMENDATORY 74 O.S. 1991, Section 2106, is amended to read as follows:

Section 2106. A. An export trading company, with a registered office or other office in this state, shall be exempt from state corporate income tax and franchise tax for a period of two (2) years from the date the ~~Director~~ Commission certifies the export trading company as a qualified export trading company. A copy of such certificate shall be filed with the Oklahoma Tax Commission which shall verify compliance with this act prior to allowing the tax exemption provided for herein. For purposes of the Export Trading Company Act, an export trading company shall be deemed to have an office in Oklahoma if it performs export trade services in this state.

B. Export trading companies shall not qualify for the tax exemptions of this section for sales made within the United States.

C. A subsidiary or affiliate of a qualified export trading company shall not be entitled to the tax exemptions provided for in this section unless such subsidiary or affiliate is certified as a qualified export trading company pursuant to Section 7 2107 of this act title.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 2107, is amended to read as follows:

Section 2107. A. Any corporation proposing to qualify as an export trading company pursuant to the provisions of the Export

Trading Company Act shall file an application for approval with the ~~Director~~ Commission. The application shall contain the names of the shareholders and principal officers of the applicant and such other information as the ~~Director~~ Commission may by regulation require, and shall specifically acknowledge the applicant's agreement to be bound by the conditions set forth in the rules and regulations issued pursuant to this section.

B. 1. In determining whether to approve an application for qualification as an export trading company and to certify such export trading company as a qualified export trading company, the ~~Director~~ Commission shall consider whether:

- a. the stated purposes of the corporation satisfy the basic aim of encouraging and expanding export trade;
- b. the activities undertaken in this state will be a significant factor in, or contribute significantly to encouraging export trade;
- c. the tax exemptions provided for in Section 6 of this act will serve as a significant incentive and aid to encouraging export trade; and
- d. export trade opportunities will be improved and initiated, particularly for small and medium-sized producers, by creation of an export trading company.

2. No successor corporation of a qualified export trading company shall be certified as a qualified export trading company if the names of the shareholders and the principal officers of such successor corporation are the same as those of the qualified export trading company.

C. 1. The Oklahoma ~~Department of Commerce~~ Tax Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of the Export Trading Company Act and to safeguard against abuses of the Export Trading Company Act. Such rules and regulations shall include a prohibition against the

stacking of tax exemptions provided for in Section ~~6~~ 2106 of this act title.

2. The ~~Director~~ Commission may issue orders pursuant to the provisions of the Export Trading Company Act in order to:

- a. prescribe information or forms required in connection with an application; and
- b. establish procedures in connection with approvals and the filing of required reports.

D. The ~~Director~~ Commission, upon the determination that any export trading company is in violation of any provisions of the Export Trading Company Act or regulations, rules, or orders issued pursuant to the Export Trading Company Act, may order the export trading company to take steps to remedy such violation or disqualify said company as an export trading company.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 2109, is amended to read as follows:

Section 2109. On or before March 1 of each year, the ~~Director~~ Commission shall provide a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate which shall include, but not be limited to:

1. the number of applications for export trading companies submitted;
2. the number of applications for export trading companies approved; and
3. the number of jobs created by each export trading company and the dollar value of export trade generated by each export trading company.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5003.10 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Commerce shall have the authority to:

1. Disseminate information concerning the industrial, commercial, governmental, educational, cultural, agricultural, business and other advantages and attractions of the state;

2. Assist public and private agencies in the preparation of informational and publicity programs designed to attract or retain business and industry for the state;

3. Obligate and expend funds for services performed by local political subdivisions of the state, state agencies, including universities and colleges within and without the state, and federal agencies for research and training in conformity with the general state laws governing such activity; and apply for, accept, administer and expend grants from the federal government and any other public or private sources for research and training purposes;

4. Conduct, publish and disseminate or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop and commercialize new products and commercial processes;

5. Study trends and developments in the industries of the state and analyze the reasons underlying such trends; study costs within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;

6. Generally gather, compile and make available economic analyses and statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, population and other like subjects in this state, with authority to call upon other agencies, universities and colleges of the state for statistical data and results obtained by them, and to arrange and compile such economic analyses and statistical information in such a manner as it deems advisable;

7. Study such other scientific, industrial, financial and economic issues as, in the judgment of the Department, shall be deemed of value to the people of the state;

8. Support and assist the efforts of state, regional and local development organizations, industrial committees, chambers of commerce, agricultural organizations, labor organizations and other similar public and private agencies to obtain new and to foster expansion of existing service, industrial and manufacturing facilities, businesses and enterprises; and to foster community improvements in leadership, expertise, human development, infrastructure, public facilities and quality of life; and to expand data availability and utilization opportunities;

9. Maintain a continuing evaluation of the sources available for the financing of the development or expansion of industrial, agricultural and commercial facilities in this state through both public and private agencies;

10. Assist in obtaining financing for the development and expansion of industrial, agricultural and commercial facilities in the state;

11. Serve as the state's official liaison agency between persons interested in locating new economic enterprises in Oklahoma and state and local groups seeking new enterprises. In this respect, the Department shall aid communities in organizing for and obtaining new businesses and expanding existing businesses and shall process requests which reflect interest in locating economic enterprises in the state;

12. Promote the sale and facilitate the marketing of Oklahoma products including agricultural and value-added products in the international market;

13. Encourage the location of foreign manufacturing plants and other industries in Oklahoma;

14. Coordinate the international efforts of the various state agencies without violating the individual authority given those agencies by statute;

15. Coordinate and serve as liaison to the private sector as needed;

16. Establish, subject to an annual appropriation or private gifts, offices outside the state boundaries. The offices may be operated by the state or may be operated pursuant to contract which shall not be subject to the competitive bid laws of the State of Oklahoma. The Department shall prepare an annual report concerning the activities of the offices and submit it to the Governor and the Legislature. The Director of the Oklahoma Department of Commerce shall notify in writing the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the Department intends to establish a new office pursuant to this paragraph at least thirty (30) days prior to the establishment of the new office or execution of a contract; and

17. Establish a system of not less than six geographic regions for promoting new or existing businesses, assisting in the expansion of small and medium sized manufacturers through a modernization program, creating new jobs, and assisting local businesses, political subdivisions or other entities to better utilize the services of the Department.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5013.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall expend so much as appropriated to the Minority Business Development Program Fund as may be necessary to accomplish contractual responsibilities for job creation and enhancement and business creation and expansion of Oklahoma minority-owned businesses. The Department may contract with organizations which support minority businesses for these purposes only after:

1. An applicant organization has submitted an approved business plan;

2. An applicant organization has demonstrated through education and experience capabilities of offering management tools and technical assistance to minority-owned businesses;

3. An applicant organization has demonstrated that it can provide financial capacity and responsibility to manage a program to aid minority-owned businesses in the manner set out herein;

4. A panel of peer reviewers has received applications and recommended such applications for contracting;

5. The Department has given due consideration to those applicants that demonstrate an ability to attract matching funding from other governmental or private or charitable organizations;

6. The Department has given due consideration to those applicants that demonstrate an ability to aid minority-owned businesses located in communities with a population of less than ten thousand (10,000); and

7. The Department has developed, adopted and published additional criteria, upon receipt of advice and comment from qualified peer reviewers.

B. Any contract entered into pursuant to this section shall require quarterly reports of activities and expenditures upon forms prescribed by the Department. Said quarterly reports shall be reviewed by Oklahoma Futures. The Department or Oklahoma Futures may disallow expenditures and withhold funds accordingly, if reports reflect failure to comply with approved applications. All contractors shall submit annual audits as required by the Department of Commerce which may be paid from allocated, appropriated funds. The Department may utilize an amount not to exceed twenty percent (20%) of appropriated funds for administration of the minority-owned business program.

C. Contracts entered into by the Oklahoma Department of Commerce for the purpose of implementing the Minority Business

Development Program shall be exempt from the requirements of the Oklahoma Central Purchasing Act.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 3105, is amended to read as follows:

Section 3105. A. Unless otherwise provided by law, every agency, department, board, commission or institution of the State of Oklahoma shall list the following information at a prominent place near the beginning of each publication issued by them:

1. Name of the issuing agency, department, board, commission or institution;

2. Authorization for publication. If such publication is not specifically authorized by statute the name of the person or persons so authorizing shall be stated;

3. The number of copies printed;

4. Name of printing firm doing printing; and

5. Assurance of compliance with Section 3-114 of Title 65 of the Oklahoma Statutes.

B. The information shall be set forth in a separate paragraph and shall conform as nearly as practical to the following format:

"This publication, printed by (name of printing firm) is issued by (here list the agency, department, board, commission or institution) as authorized by\_\_\_\_\_. \_\_\_\_\_ copies have been prepared and distributed at a cost of \$\_\_\_\_\_. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries."

C. State promotion and informational publications produced by the Oklahoma Tourism and Recreation Department, Division of Travel and Tourism, and the Oklahoma Department of Commerce shall be exempt from the provisions of this section.

SECTION 10. AMENDATORY 74 O.S. 1991, Section 5019, is amended to read as follows:

Section 5019. ~~A.~~ There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "State Data Center Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Department of Commerce from monies received for costs of data processing, copying, duplication and other costs incident to the production of printed reports from entities receiving such services. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Commerce for the purpose of costs of data processing, copying, duplication and other costs incident to the production of printed reports for entities which have requested the services of the State Data Center. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

~~B. Personnel costs provided by legislative appropriation shall not be a part of charges authorized by this section.~~

~~C. On July 1, 1986, any unallotted cash balance in the State Data Center Revolving Fund created in Section 1538.1 of Title 74 of the Oklahoma Statutes shall be transferred to the State Data Center Revolving Fund created in this section. All outstanding financial obligations and encumbrances of the State Data Center Revolving Fund created in Section 1538.1 of Title 74 of the Oklahoma Statutes are hereby transferred to the Oklahoma Department of Commerce. After November 15, 1986, any unexpended balance in the State Data Center Revolving Fund created in Section 1538.1 of Title 74 of the Oklahoma Statutes shall be transferred to the State Data Center Revolving Fund created in this section.~~

SECTION 11. AMENDATORY 74 O.S. 1991, Section 5065.1, is amended to read as follows:

Section 5065.1 A. There is hereby created the Oklahoma Agroindustry Policy Commission herein called Commission, which shall exist as a temporary Commission to study and analyze all Oklahoma agroindustry programs, policies and institutions. For the purposes of this act, the term agroindustry shall be defined as the production, harvesting, transporting, storage, marketing and processing of farm products and the supplying of feed, seed, farm chemicals and farm equipment.

B. The Commission shall be composed of fifteen (15) members as follows:

1. Five persons to be appointed by the Governor, with the following qualifications:

- a. one shall be engaged in the business of farming,
- b. three shall be agribusinessmen, and
- c. one shall have international agriculture marketing experience;

2. The Director of the Oklahoma Department of Commerce or his designee;

3. The Commissioner of the State Department of Agriculture;

4. The Chancellor of the Oklahoma State Regents for Higher Education;

5. The Director of the Oklahoma State University Cooperative Extension Service;

6. One member of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives; and

7. One member of the State Senate to be appointed by the President Pro Tempore of the Senate;

8. The following shall be ex officio members:

- a. the chairmen of the Agriculture Committees of the Oklahoma House of Representatives and of the State Senate, and

b. the chairmen of the Economic Development Committees of the Oklahoma House of Representatives and of the State Senate.

C. Each appointing officer, in making said appointments, shall give due consideration and appropriate recognition to persons who are recognized for outstanding knowledge and leadership in their fields of agroindustry, and to both of the major political parties in the state and in making their appointments, the President Pro Tempore and the Speaker shall each appoint at least one member of the political party having the second largest number of members in their respective houses of the Legislature.

D. Whenever a vacancy shall occur on the Commission, the officer making the initial appointment shall appoint a person to fill the vacancy.

E. The members of the Commission appointed by the Governor shall receive no compensation but shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act. Legislative members shall receive reimbursement for their expenses in attending such meetings pursuant to Section 456 of Title 74 of the Oklahoma Statutes. Members who are state executive officers shall not receive reimbursement for travel expenses for meetings held in Oklahoma City.

F. Appointive members of the Commission shall be named within thirty (30) days of the effective date of this act.

SECTION 12. REPEALER 74 O.S. 1991, Sections 5005.1, 5080, 5081, 5082, 5083 and 6001 are hereby repealed.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-2166

TAD