

ENGROSSED HOUSE
BILL NO. 1759

BY: ROACH and McCORKELL of
the HOUSE

and

HOBSON of the SENATE

AN ACT RELATING TO PUBLIC FINANCE; AMENDING SECTION
6, CHAPTER 321, O.S.L. 1990 (62 O.S. SUPP. 1990,
SECTION 690.19), WHICH RELATES TO ENTERPRISE ZONES;
REQUIRING CERTAIN NAMES FROM ENTERPRISE ZONES;
AMENDING SECTION 3, CHAPTER 183, O.S.L. 1988, AND
SECTIONS 5 AND 6, CHAPTER 183, O.S.L. 1988, AS
AMENDED BY SECTIONS 8 AND 9, CHAPTER 321, O.S.L.
1990 (62 O.S. SUPP. 1990, SECTIONS 88.3, 88.5 AND
88.6), WHICH RELATE TO SMALL BUSINESS LINKED
DEPOSIT ACT; PROVIDING FOR ADDITIONAL MEMBER OF
OKLAHOMA LINKED DEPOSIT REVIEW BOARD; REQUIRING
CERTAIN REVIEW BY BOARD; REQUIRING SUMMARY AND
CERTAIN FILING OF SUCH; PROVIDING FOR THE
DEPARTMENT OF COMMERCE TO DISSEMINATE CERTAIN
INFORMATION; MODIFYING LOAN LIMITATIONS AND
CONDITIONS; MODIFYING SMALL LINKED DEPOSIT LOAN
CONSIDERATION FACTORS; MODIFYING SMALL LINKED
DEPOSIT INTEREST RATE; REQUIRING DEPOSITS OF FUNDS
BY THE STATE TREASURER TO MATCH THE TERMS OF THE
LOANS APPROVED; REQUIRING CERTAIN
COLLATERALIZATION; MODIFYING ANNUAL REPORT
PREPARATION DATE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY Section 6, Chapter 321, O.S.L. 1990 (62 O.S. Supp. 1990, Section 690.19), is amended to read as follows:

Section 690.19 The Oklahoma Department of Commerce shall produce an annual report by October 15 of each year for the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate regarding the performance of the zones. Information in the report shall include but not be limited to the amount of tax credits granted and jobs added within the zones. The report shall include those zones in existence prior to the passage of this act.

The county commissioners, municipal governing body or enterprise district management authority of any enterprise zone, or enterprise district shall submit to the Department of Commerce the name and address of the individual in charge of supervising such enterprise zones by July 1 of each year.

SECTION 2. AMENDATORY Section 3, Chapter 183, O.S.L. 1988 (62 O.S. Supp. 1990, Section 88.3), is amended to read as follows:

Section 88.3 A. There is hereby created the Oklahoma Linked Deposit Review Board. The Board shall consist of ~~six (6)~~ seven (7) members as follows:

1. The State Auditor and Inspector or his designee;
2. The Lieutenant Governor or his designee to represent Oklahoma small business;
3. The State Insurance Commissioner or his designee;
4. The State Treasurer or his designee;
5. The Director of the Department of Commerce or his designee;

6. A representative from an Oklahoma banking institution appointed by the Bank Commissioner; and

~~6.~~ 7. A representative appointed by the Governor.

B. The purpose of the Board shall be to insure eligibility and compliance with the linked deposit program by lenders and applicants. The Board shall review applications and make recommendations for approval or rejection of a linked deposit loan package. In reviewing linked deposit loan applications the Board shall take into consideration the economic needs of the area in which the business is to be located and the number of jobs to be created or preserved by the receipt of such loan. The Board shall adopt and administer a plan whereby the use and economic impact of linked deposit loans shall be reviewed and analyzed on a semiannual basis. The Board shall be responsible for preparing a report summarizing these findings on a semiannual basis with the first report due on or before January 1, 1993. The report shall be filed with the State Treasurer, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Chairmen of the House of Representatives and the Senate Economic Development Committees. Notwithstanding any other provision of law, the holding of other office or employment under the government of this state shall not be prohibited due to service on the Oklahoma Linked Deposit Review Board.

SECTION 3. AMENDATORY Section 5, Chapter 183, O.S.L. 1988, as amended by Section 8, Chapter 321, O.S.L. 1990 (62 O.S. Supp. 1990, Section 88.5), is amended to read as follows:

Section 88.5 A. The State Treasurer and the Department of Commerce ~~is~~ are hereby authorized to disseminate information and to provide small business linked deposit loan packages to the lending institutions eligible for participation under this act.

B. The small business linked deposit loan package shall be completed by the borrower before being forwarded to the lending

institution for consideration. Any technical assistance in completing such loan package shall be provided by the State Treasurer.

C. An eligible lending institution that desires to receive a small business linked deposit shall accept and review applications for loans from eligible participants. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible participant. Loans under this act shall conform to the following conditions:

1. Maximum loan amounts under the Oklahoma Small Business Linked Deposit Act shall:

- a. not exceed One Million Dollars (\$1,000,000.00) for an eligible small business,
- b. not exceed Six Million Dollars (\$6,000,000.00) for an eligible industrial park or any public trust authorized in accordance with Section 176 of Title 60 of the Oklahoma Statutes engaged in industrial development as determined by the Department of Commerce. Such public trusts are limited to fifteen percent (15%) of the total available funds and a nonrenewable term not to exceed six (6) months unless their purpose is to make package passthrough loans to other private recipients for industrial development purposes. Loans made by an eligible trust cannot exceed the interest rate established by this act. Any recipient of a loan through an eligible trust must meet the criteria of this act to receive a small linked deposit loan;

2. An eligible participant shall certify on the loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities in accordance with the purpose of this section;

3. Only one linked deposit loan shall be made and be outstanding at any time to any eligible participant; provided that the linked deposit loan may be refinanced;

4. No linked deposit loan shall be approved for any otherwise eligible participant when fifty percent (50%) or more of the interest in or control of such otherwise eligible participant is owned directly or indirectly by a person who owns directly or indirectly fifty percent (50%) or more of or controls another participating eligible participant;

5. No loan shall be made to any officer or director of the lending institution making the loan or to any entity in which any such officer or director maintains a controlling interest;

6. No loan shall be made to any employee of the State Treasurer's office or members of the Board or to any entity in which any such officer or director maintains a controlling interest;

7. ~~No loan will be made for the sole purpose of refinancing the existing debt of the applicant~~ Of the funds obtained by receiving a loan under the provisions of this act, the amount the applicant may use to refinance existing debt shall not exceed fifty percent (50%) of the amount of the loan obtained pursuant to this act;

8. The amount of the linked deposit loan must not exceed Thirty Thousand Dollars (\$30,000.00) per job created and saved;

9. Whoever knowingly makes a false statement concerning a linked deposit loan application shall be prohibited from entering into the linked deposit loan program; and

10. Linked deposits may be made for any maturity considered appropriate by the State Treasurer not to exceed two (2) years and may be renewed for up to an additional two (2) years at the discretion of the lending institution and the State Treasurer. However, such loans made to eligible participants where the loan is to be used within an enterprise zone may be made for the maturity date of three (3) years and have another three (3) years of renewal.

Loans made to be used within Priority Enterprise Zones may be made with a maturity date of five (5) years and have another three (3) years of renewal. Interest shall be paid at the times determined by the State Treasurer. The State Treasurer may place a small business linked deposit with an eligible lending institution or decline to do so based on the cash flow needs of the state, the security of state funds, investment needs of the state and the ratio of state funds deposited to jobs which would be sustained or created.

D. In considering which eligible participants to include in the small business linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area in which the business is located and other factors it considers appropriate to determine the relative financial need of the business including those criteria set forth in the Community Reinvestment Act of the United States. Location in an enterprise zone shall be evidence of the economic needs of the area.

E. The eligible lending institution shall forward to the State Treasurer a small business linked deposit loan package in the form and manner prescribed and approved by the State Treasurer. The package shall include information regarding the amount of the loan requested by each eligible participant, the number of jobs to be created or sustained and such other information regarding each business the State Treasurer and the Board requires. The institution shall certify that each applicant is an eligible participant, and shall, for each business, certify the present borrowing rate applicable to each specific eligible small business.

F. Upon receipt of a completed small business linked deposit loan package, the State Treasurer shall forward the loan package to the Board, Oklahoma Tax Commission and Oklahoma Employment Security Commission. The Board shall review the small business linked deposit loan package to determine if said package is qualified under this act. Within ten (10) days of receipt of the loan package, the

Oklahoma Tax Commission and the Oklahoma Employment Security Commission shall determine and certify with the Board whether or not the applicant is in good standing. The Board shall make a recommendation concerning the package within ten (10) business days, after receipt of the responses from the Oklahoma Tax Commission and the Oklahoma Employment Security Commission. No applicant will be approved without certification of good standing with the Oklahoma Tax Commission and Oklahoma Employment Security Commission. The Board shall return the package to the State Treasurer with a written recommendation of approval or rejection. If the Board recommends rejection, the written recommendation shall include reasons for said rejection. The Board shall forward a copy of its rejection notice to the lending institution and the borrower. The State Treasurer shall keep a chronological list of applications forwarded by the Board for approval or rejection.

SECTION 4. AMENDATORY Section 6, Chapter 183, O.S.L. 1988, as amended by Section 9, Chapter 321, O.S.L. 1990 (62 O.S. Supp. 1990, Section 88.6), is amended to read as follows:

Section 88.6 A. Applications approved by the Board shall be subject to available funds, and if a loan or loan package is not funded for such reason, it will be funded in the chronological order of its approval.

B. The State Treasurer shall reject any small business linked deposit loan package if the participant requesting such loan is not in good standing with the Oklahoma Tax Commission and the Oklahoma Employment Security Commission. Notwithstanding any provision of law to the contrary, said agencies shall provide the State Treasurer with such information as to the standing of each participant loan applicant within ten (10) days of the request for the information.

C. Upon acceptance of the small business linked deposit loan package or any portion thereof, the State Treasurer shall notify the Board, the lending institution and the borrower. Upon acceptance

the State Treasurer may place certificates of deposit with the eligible lending institution at up to three percent (3%) below the comparable Treasury Bill rate, as determined and calculated by the State Treasurer. When necessary, the State Treasurer may place certificates of deposit prior to acceptance of a small business linked deposit loan package. In any case, placement of certificates of deposits by the State Treasurer shall stay on deposit for the term of the loans approved or renewed.

D. Upon the placement of a small business linked deposit with an eligible lending institution, the institution shall fund the loan to each approved eligible participant listed in the small business linked deposit loan package in accordance with the small business linked deposit agreement between the institution and the State Treasurer. The percentage rate of the loan shall be reduced by at least the same number of percentage points that the certificate of deposit was reduced upon placement. A certification of compliance with this subsection in the form and manner as prescribed by the State Treasurer shall be required of the eligible lending institution. Deposits placed by the State Treasurer shall be secured by collateralization as determined by the State Treasurer at one hundred percent (100%) of the deposits plus the anticipated interest from those deposits.

E. The State Treasurer shall prepare, at least annually by ~~January 1~~ July 1, and file with the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, a report accurately reflecting whether loans pursuant to the Oklahoma Small Business Linked Deposit Program have resulted in jobs created or saved and the amount of loan per each job so referenced. The State Treasurer shall base such report upon information from the Employment Security Commission as to each applicant for which a linked deposit loan has been approved. Such report shall list separately each loan, with name, address, and type of business by

Standard Industrial Code, amount, estimated jobs saved or created, lending institution and locations by county and/or enterprise zone, if applicable.

SECTION 5. This act shall become effective September 1, 1991.

Passed the House of Representatives the 28th day of February, 1991.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate