

ENGROSSED SENATE
BILL NO. 337

BY: WILLIAMS (Penny) and WRIGHT
of the SENATE

and

McCORKELL of the HOUSE

AN ACT RELATING TO STATE GOVERNMENT; AMENDING 74 O.S.
1981, SECTION 85.12, AS LAST AMENDED BY SECTION 20,
CHAPTER 337, O.S.L. 1990, AND SECTION 20, CHAPTER
207, O.S.L. 1986, AS RENUMBERED BY SECTION 122,
CHAPTER 222, O.S.L. 1987 AND AS LAST AMENDED BY
SECTION 57, CHAPTER 236, O.S.L. 1987 (74 O.S. SUPP.
1990, SECTIONS 85.12 AND 5003.7), WHICH RELATE TO
THE OKLAHOMA CENTRAL PURCHASING ACT AND THE
OKLAHOMA DEPARTMENT OF COMMERCE; EXEMPTING CERTAIN
CONTRACTS FROM CENTRAL PURCHASING ACT; DELETING
POWER TO DEVELOP AND MANAGE AN ECONOMIC INNOVATION
SYSTEM; CREATING THE ECONOMIC DEVELOPMENT
INNOVATION ACT; PROVIDING SHORT TITLE; STATING
INTENT; DEFINING TERMS; AUTHORIZING PROMULGATION OF
CERTAIN RULES AND REGULATIONS; MAKING PROVISIONS OF
THE OKLAHOMA CENTRAL PURCHASING ACT INAPPLICABLE TO
CERTAIN CONTRACTS; AUTHORIZING OKLAHOMA DEPARTMENT
OF COMMERCE TO CONTRACT WITH LOCAL ECONOMIC
DEVELOPMENT ORGANIZATIONS FOR SERVICES; STATING
MINIMUM QUALIFICATIONS; REQUIRING CERTAIN
INFORMATION; DISALLOWING CERTAIN EXPENDITURES;
STATING PENALTY FOR NONCOMPLIANCE WITH CERTAIN
LAWS, RULES, REGULATIONS OR CONTRACT PROVISIONS;

REQUIRING AUDIT AND STATING PENALTY FOR FAILURE TO
SUBMIT AUDIT; PROVIDING FOR REQUEST FOR AND
DETERMINATION AND DISBURSEMENT OF MATCHING FUNDS;
CREATING A REVOLVING FUND; AUTHORIZING DEPARTMENT
TO ESTABLISH CERTIFICATION PROGRAM FOR WOMEN-OWNED
BUSINESSES; DEFINING TERM; STATING REASON AND BASIS
FOR CERTIFICATION AND REQUIRING CERTAIN
INFORMATION; STATING PROGRAM SHALL NOT REPLACE
SIMILAR PROCEDURES OR PROGRAMS OF OTHER AGENCIES;
PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE
DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 74 O.S. 1981, Section 85.12, as
last amended by Section 20, Chapter 337, O.S.L. 1990 (74 O.S. Supp.
1990, Section 85.12), is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be
construed to affect any law relating to fiscal or accounting
procedure except such as may be directly in conflict herewith; and
all claims, warrants and bonds shall be examined, inspected and
approved as now provided by law.

B. The following acquisitions shall not be included within the
purview of the Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and
agencies;

2. Contracts for construction of new buildings and for the
repair, maintenance or modernization of old buildings by state
educational institutions included within The Oklahoma State System
of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees;

4. Acquisitions by The Oklahoma State System of Higher Education on any institution or entity comprising the same insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials and specialized laboratory equipment;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Purchases of products by Oklahoma Medical Center. The Commission for Human Services shall develop standards for the purchase of products and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and include appropriate safeguards to assure appropriate competition and economical and efficient purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Grand River Dam Authority;

13. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority, except that the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall remain subject to the provisions of Section 85.32 of this title;

14. Contracts entered into by the State Department of Education for the purpose of implementing the provisions of Section 6-156 of Title 70 of the Oklahoma Statutes;

15. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

16. Contracts entered into by the State Department of Vocational and Technical Education for the development, revision or updating of vocational curriculum materials;

17. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

18. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Sections 3 through 9 of this act;

19. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

~~19.~~ 20. Purchases of products available to an agency through a General Services Administration contract or other federal contract

if the item is not on current state contract or the terms of such contract are more favorable to the agency than the terms of a state contract for the same products; and

~~20.~~ 21. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.4 of this title.

C. Notwithstanding the exclusions provided herein, any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the Purchasing Director. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Further, notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Office of Public Affairs, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority to assure that said purchasing policies and procedures, as approved by him, are being followed.

SECTION 2. AMENDATORY Section 20, Chapter 207, O.S.L. 1986, as renumbered by Section 122, Chapter 222, O.S.L. 1987 and as last amended by Section 57, Chapter 236, O.S.L. 1987 (74 O.S. Supp. 1990, Section 5003.7), is amended to read as follows:

Section 5003.7 A. The Oklahoma Department of Commerce shall prepare, with the cooperation of the Oklahoma business community, agricultural community, financial community, universities, labor and the state executive and legislative branches, a five-year economic

development plan and annual updates for the State of Oklahoma. The recurring five-year economic development plan and annual updates shall be subject to the approval of Oklahoma Futures.

1. The purpose of the plan shall be to identify significant economic, social, and demographic trends which may have both short-term and long-term impacts on the state and local economy and to present strategies and recommendations that the state and local political subdivisions might adopt to improve or stabilize the economy.

2. The goals of the plan shall include the development of a diversified state economy, increasing employment, the maximum use of federal, state and local funds to achieve the goals or recommendations included in the plan, the maximum investment of capital in the economy of the state, and the improvement of the quality of life in the state.

3. The plan wherever possible shall make recommendations to encourage intergovernmental cooperation and public and private cooperation.

4. Copies of the plan and the annual updates shall be submitted to the Oklahoma Advisory Committee on Intergovernmental Relations, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the chairmen of the standing committees on economic development of the Senate and of the House of Representatives in the annual report of Oklahoma Futures.

5. The Department shall develop and manage a complete economic information system which will support the five-year planning process, and which will make available complete and timely information on the state economy. The economic information system shall be operated by public or private Oklahoma universities or an Oklahoma enterprise capable of providing such services in a cost-effective manner.

~~B. The Oklahoma Department of Commerce shall have the power and duty to develop and manage an Economic Innovation System, a decentralized statewide partnership, by responsively and innovatively coordinating technical assistance, grant and loan programs, with local, state, federal and private sector activities into a single statewide system.~~

~~C.~~ The Oklahoma Department of Commerce shall have the power and duty to develop public works physical and financial planning capabilities to establish a statewide public works planning process that is accessible by local planners, that is objective, and that is managed by people highly skilled in all aspects of infrastructure planning.

~~D.~~ C. The Department, in conjunction with the Oklahoma Development Finance Authority, is authorized to develop an infrastructure program which will enable political subdivisions of this state to finance public works projects in order to modify or improve existing public facilities for purposes of bringing said facilities, and the operation thereof, into compliance with and maintaining compliance with federal, state and local laws and regulations pertaining to the protection of the public health and the environment.

~~E.~~ D. The Director shall develop an annual business plan for the Department. The business plan shall be submitted to Oklahoma Futures for its review and comment and shall be included in the annual report of Oklahoma Futures. The business plan shall include the need and mission of each division of the Department created by law or the Director and an analysis of past costs and benefits and future projected costs and benefits to the state of the programs of each division of the Department. The business plan shall be consistent with the goals of the recurring five-year plan specified in this section. Oklahoma Futures shall review and comment upon such plan before it is implemented. The Director shall distribute

copies of the business plan by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5009.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

Sections 3 through 9 of this act shall be known and may be cited as the "Economic Development Innovation Act".

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5009.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Economic Development Innovation Act to promote the creation of jobs by establishing cooperative programs between the State of Oklahoma and local economic development organizations. The Oklahoma Department of Commerce shall administer a competitive process which encourages local economic development organizations to engage in innovative activities that:

1. Stimulate economic development in multicounty or countywide areas of this state through effective strategic planning;
2. Are supported by broadly based public/private partnership efforts and resources;
3. Provide new or expanding businesses direct assistance in preparing business plans and securing financing; and
4. Result in the creation of jobs or new capital for the citizens of this state.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5009.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in the Economic Development Innovation Act:

1. "Allowable expenditure" means those expenditures by economic development organizations submitted to the Oklahoma Department of Commerce for matching funds in accordance with the provisions of the

Economic Development Innovation Act and the rules and regulations promulgated pursuant thereto by the Department;

2. "Discretionary expenditure" means those expenditures for which matching funds are not requested. Discretionary expenditures are not subject to the limiting provisions of the Economic Development Innovation Act and the rules and regulations promulgated pursuant thereto by the Department;

3. "Economic development organization" means a public or private sector organization which has, as its primary goal, the creation of jobs and new capital in this state;

4. "Independent and certified audit" means an audit performed by a public accountant or certified public accountant registered with the Oklahoma Board of Public Accountancy. The audit shall be in accordance with the standards established by the Board of Public Accountancy for audits and shall include specific requirements identified in the Economic Development Innovation Act and in the rules and regulations of the Department; and

5. "Program" means the Economic Development Innovation Program.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5009.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall have the authority to promulgate rules and regulations to establish the Economic Development Innovation Program and such criteria, limitations, priorities and requirements for qualification to contract and receive funding as may be necessary to implement the provisions of the Economic Development Innovation Act. The provisions of Sections 85.1 through 85.44 of Title 74 of the Oklahoma Statutes shall not apply to said contracts.

B. The Department shall implement the Program by contracting for services with local economic development organizations. An

eligible organization shall meet the following minimum qualifications:

1. Service an area larger than one community or political subdivision;

2. Demonstrate public and private support, in the form of contributions to the organization;

3. Have a viable economic development plan of action, which shall include a statement of goals, a pro forma budget, and a demonstration of business expertise;

4. Have resolved all outstanding issues on past performance on contracts with the Department, or any audit findings;

5. At a minimum, be required to match any state contract amount dollar-for-dollar with any funds received or pledged from public and private sources, in support of its economic development activities; and

6. Demonstrate expertise in providing business assistance and the ability to perform job development activities.

C. Program participants shall prepare and submit required plans, including a budget work program, for the ensuing fiscal year to the Department. Expenditures for obligations incurred without the Department's approval of the organization's plans and budget work program and changes thereto and expenditures not in accordance with the organization's plans and work program, may not be allowable expenditures.

D. Noncompliance with the laws of this state, rules and regulations of the Department or provisions of contracts entered into under the Program shall be cause for withholding the matching funds by the Department.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5009.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

Each Program participant shall submit annually an independent and certified audit. Failure to submit said audit shall be cause for withholding matching funds.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5009.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Matching funds for allowable expenditures shall be based on actual expenditures by the Program participant. Requests for matching funds in accordance with executed expenditures shall be submitted on a State of Oklahoma notarized claim form with all applicable statements and affidavits.

B. Prior to the disbursement of matching funds to any Program participant, the Department shall deduct from such matching funds the amount of any and all obligations due and owing to the Department of Commerce by said Program participant.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5009.7 of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "Local Economic Development Innovation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of appropriated funds, and any other monies collected as a result of operations of the Department. All monies accruing to the credit of said fund are hereby appropriated and may be expended by the Oklahoma Department of Commerce to perform the duties imposed upon the Department by law. 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.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5010.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. In order to facilitate contracting capabilities of women-owned businesses with public and private entities, and to establish criteria to certify such businesses, the Oklahoma Department of Commerce may establish a certification program for women-owned businesses which are in compliance with the definition of a small-business concern as set forth in 15 U.S.C., Section 632 and in regulations promulgated pursuant to said section by the Small Business Administration. For purposes of this section, a women-owned business is one that is at least fifty-one percent (51%) owned and operated on a day-to-day basis by one or more females. Provided, if majority ownership is held by persons recognized as members of a socially and economically disadvantaged group, the business may be classified and certified as a minority-owned business.

B. The Department shall issue certificates to women-owned businesses which are small-business concerns as evidence of ownership for the purpose of contracting with corporate or governmental entities. Certification shall be based upon information which is required by the Department from the business seeking certification and which will be subject to verification and approval by the Department. The Department shall require an affidavit of ownership, organization and decision-making authority, financial information and such other information deemed necessary by the Department to evaluate a business for certification. The certification program shall not replace any certification procedures or programs of other governmental agencies.

C. Certificates issued by the Department pursuant to this section shall not be financial guarantees or personal approvals of businesses but shall be for the purpose of verifying that businesses

are women-owned in order to enhance the ability of such businesses to contract with public and private entities and to access state and federal information and assistance.

SECTION 11. This act shall become effective July 1, 1991.

SECTION 12. 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.

Passed the Senate the 13th day of March, 1991.

President of the Senate

Passed the House of Representatives the ____ day of

_____, 1991.

Speaker of the House of Representatives