

ENROLLED SENATE
BILL NO. 819

BY: ROZELL of the SENATE

and

ROACH and SATTERFIELD of
the HOUSE

AN ACT RELATING TO STATE CONTRACTS; AMENDING 74 O.S.
1991, SECTIONS 85.32 AND 85.42, WHICH RELATE TO
PURCHASING AND LIMITATIONS ON CONTRACTS WITH
CERTAIN PERSONS; PROVIDING EXCEPTION FROM CERTAIN
PURCHASING PREFERENCE; REQUIRING ALL STATE
CONTRACTS TO INCLUDE CERTAIN AFFIDAVIT PRECLUDING
CERTAIN STATE EMPLOYEES FROM FULFILLING SUCH
CONTRACTS; PROVIDING EXCEPTIONS; AND PROVIDING AN
EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 85.32, is amended to read as follows:

Section 85.32 A. Except as otherwise provided by this subsection, the state and any school district, county or municipality and every person acting as purchasing agent for the state or any school district, county, municipality or tax exempt industrial trust shall prefer, in all purchases, supplies, materials and provisions produced, manufactured or grown in this state; provided, that such preference shall not be for articles of inferior quality to those offered from outside the state, but a differential of not to exceed five percent (5%) may be allowed in the cost of Oklahoma materials, supplies and provisions of equal quality. Further provided, that this act shall not be construed as repealing Section 85.17 of this title in those instances where the state of domicile of the bidder or any subdivision thereof allows a differential on articles produced, manufactured or grown in such state in excess of five percent (5%). The provisions of this subsection shall not apply if a reciprocal trade agreement or treaty has been negotiated by the State of Oklahoma or by the United States Government on behalf of or including this state with a foreign nation or government for nondiscriminatory governmental procurement practices or policies with such foreign nation or government.

B. For purposes of this section, an article shall be deemed to be produced, manufactured or grown within this state if:

1. It is substantially produced, manufactured or grown by any person, partnership, company, association or corporation

- a. authorized to do and doing business under the laws of this state,
- b. paying all taxes duly assessed, and
- c. domiciled within this state by having a location of production or manufacturing within this state; or

2. In the case of dairy products, the person, partnership, company, association or corporation:

- a. is authorized to do and doing business under the laws of this state or sell its products through a wholesaler who is,
- b. has paid all taxes duly assessed, and
- c. has purchased a dairy product or products used in the production of the article from an Oklahoma producer or producers.

C. A person, partnership, company, association or corporation may qualify for the differential provided in subsection A of this section by the affidavit of the person, a partner or an officer, as appropriate, that each of the requirements of either paragraph 1 or 2 of subsection B of this section have been met.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 85.42, is amended to read as follows:

Section 85.42 A. Except as otherwise provided for in this section, any agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title, is prohibited from entering into a sole source contract or a contract for professional services with or for the services of any person, who has terminated his employment with or who has been terminated by that agency for one (1) year after the termination date of the employee from the agency. The provisions of this subsection shall not prohibit an agency from hiring or rehiring such person as a state employee.

B. Each contract entered into by any person or firm with the State of Oklahoma shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. This subsection shall not preclude faculty and staff of the institutions within the State System of Higher Education from negotiating and participating in research grants and educational contracts. Nor shall this subsection apply to personnel of the Capital Resources Division of the Oklahoma Department of Commerce who contract to provide services to the Oklahoma Capital Investment Board.

C. As used in this section, person is defined as any state official or employee of a department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, school district, fair board, court, executive office, advisory group, task force, study group, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof, judges, justices, and state legislators.

D. An agency may enter into a sole source contract or a contract for professional services at any time with a person who is a qualified interpreter for the deaf.

SECTION 3. This act shall become effective September 1, 1992.