

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1271

By: Williams

COMMITTEE SUBSTITUTE

An Act relating to state government; creating the Oklahoma Information Network Act; providing short title; defining terms; creating the Oklahoma Information Network; establishing the governing board; providing for membership and terms; requiring officers to be elected annually; providing quorum and voting requirements; stating purpose and duties of the network; requiring state agencies to cooperate and provide services and information; authorizing certain contracts; providing for recoupment of costs; providing for a network manager; prohibiting the hiring of certain persons for network manager; stating powers and duties; authorizing an employment agreement; establishing OIN as a state agency and employees thereof as state employees; authorizing contracts for consulting, research and other services; permitting acceptance of gifts, donations and grants; exempting the Oklahoma Information Network from state purchasing laws; stating duties of the Information Services Division; creating the Oklahoma Information Network Revolving Fund; providing for deposits to and expenditures from said fund; providing for financing of operations; dedicating certain monies; amending 74 O.S. 1991, Section 85.12, as last amended by Section 1, Chapter 246, O.S.L. 1992 (74 O.S. Supp. 1992, Section 85.12), which relates to exclusions from state purchasing laws; updating statutory reference; adding exclusion; 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 8050 of Title 74, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 9 of this act shall be known and may be cited as the "Oklahoma Information Network Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8051 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in this act;

1. "Agency" means any agency or instrumentality of the State of Oklahoma which stores, gathers or generates public information;

2. "Gateway" means any centralized electronic information system by which public information shall be provided via dial-in modem or continuous link to the public through subscription or through public libraries;

3. "Network manager" means the entity or person engaged to manage and run the gateway or network on behalf of OIN;

4. "OIN" means the Oklahoma Information Network created pursuant to Section 3 of this act or if OIN is abolished, the agency, board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to OIN shall be given by law;

5. "Public information" means any information stored, gathered or generated in electronic or magnetic form by the State of Oklahoma, its agencies or instrumentalities, which is included within the information deemed to be public pursuant to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes; and

6. "User association" means an association:

- a. whose membership is identifiable by regular payment of association dues and regularly maintained membership lists,
- b. which is registered with the state or is an Oklahoma corporation,
- c. which exists for the purpose of advancing the common occupation or profession of its membership, and
- d. which, after the appointment of the initial board of OIN, regularly promotes and encourages the subscription of its members to the gateway service provided by OIN.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8052 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a body politic and corporate to be known as the Oklahoma Information Network ("OIN"). OIN is hereby constituted as a public instrumentality and the exercise by OIN of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

B. OIN shall be governed by a board consisting of nine (9) members as follows:

1. The Secretary of State;

2. Two members who are chief executive officers of agencies of the executive branch, appointed by the Governor who shall serve at the pleasure of the Governor;

3. One member appointed by the Governor from a list of three Oklahoma Bar Association members submitted by such Association. Such member shall serve a three-year term;

4. Three members from other user associations of a statewide character appointed by the Governor. No two members appointed pursuant to this paragraph shall represent the same user association. The terms for such members shall be for a period of three (3) years, except initially, when the terms shall be for one (1), two (2), and three (3) years, respectively;

5. One member appointed by the Governor from a list submitted by the president of the Oklahoma Libraries Association and comprised of three librarians employed by public libraries. Following the initial appointments, such list shall be comprised of librarians of public libraries which subscribe to OIN. Such member shall serve a three-year term; and

6. The Director of State Finance or a designee.

C. The board shall annually elect one member from the board as chairperson of OIN, another as vice-chairperson and another as secretary.

D. Five members of the board shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the board. No vacancy in the membership of the

board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8053 of Title 74, unless there is created a duplication in numbering, reads as follows:

It shall be the purpose of OIN to perform the following duties:

1. Provide electronic access for members of the public to public information of agencies via a gateway service;
2. Develop a dial-in gateway or electronic network for access to public information;
3. Provide appropriate oversight of any network manager;
4. Explore ways and means of expanding the amount and kind of public information provided, increasing the utility of the public information provided and the form in which provided, expanding the base of users who access such public information and, where appropriate, implementing such changes;
5. Cooperate with the Office of State Finance in seeking to achieve the purposes of OIN;
6. Explore technological ways and means of improving citizen and business access to public information and, where appropriate, implement such technological improvements; and
7. Explore options of expanding such network and its services to citizens and businesses by providing add-on services such as access to other for-profit information and databases and by providing electronic mail and calendaring to subscribers.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8054 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. In order to achieve its purpose as provided in this act, OIN shall:

1. Serve in an advisory capacity to the Office of State Finance and other state agencies regarding the provision of state data to the citizens and businesses of Oklahoma;
2. Seek advice from the general public, its subscribers, professional associations, academic groups and institutions and

individuals with knowledge of and interest in areas of networking, electronic mail, public information access, gateway services, add-on services and electronic filing of information; and

3. Develop charges for the services provided to subscribers, which include the actual costs of providing such services.

B. All state agencies shall cooperate with OIN in providing such assistance as may be requested for the achievement of its purpose. Agencies may recover actual costs incurred by providing such assistance. Services and information to be provided by any agency shall be specified pursuant to contract between OIN and such agency.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8055 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. OIN shall hire a network manager, which may be either a person, company or corporation. OIN shall draw criteria and specifications in consultation with the Office of State Finance for such a network manager and its duties. OIN may negotiate and enter into an employment agreement with the network manager selected which may provide for such duties, responsibilities and compensation as may be provided for in such agreement. No member or former member of the Legislature shall be hired as the network manager unless such person has not been a legislator for at least five (5) years.

B. The network manager shall direct and supervise the day-to-day operations and expansion of such gateway and network, including the initial phase of operations necessary to make such gateway operational, and:

1. May employ, supervise and terminate such other employees of OIN as designated by OIN;

2. Shall attend meetings of OIN;

3. Shall keep a record of all gateway, network and related operations of OIN, which records shall be the property of OIN, and shall maintain and be a custodian of all financial and operational records, documents and papers filed with OIN; and

4. Shall yearly update and revise the business plan of OIN, in consultation with and under the direction of OIN.

C. The employees of OIN shall be considered state employees, and OIN shall be considered a state agency for purposes of the laws governing the central payroll system for all state agencies, the deferred compensation plan developed and approved for state employees, the Oklahoma Public Employees Retirement System, employment security, workers' compensation, and the state health care benefits program. All employees of OIN shall be considered to be state employees and OIN shall be considered to be a state agency only for the purposes specified in this subsection. Nothing in the Oklahoma Information Network Act shall be construed as placing any officer or employee of OIN in the classified service or unclassified service under the Oklahoma Personnel Act.

D. OIN may negotiate and enter into contracts for professional consulting, research and other services.

E. OIN may accept gifts, donations and grants.

F. OIN shall not be subject to state purchasing laws.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8056 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Office of State Finance shall provide to OIN such staff and other assistance as may be requested by OIN, and the actual cost of such assistance shall be paid for by OIN.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8057 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 Information Network, to be designated the "Oklahoma Information Network 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 Information Network from gifts, donations, grants or any other source. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Information Network to implement the provisions of the Oklahoma Information

Network Act and such other duties as may be prescribed by law. Expenditures from the 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 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8058 of Title 74, unless there is created a duplication in numbering, reads as follows:

OIN shall fund its operations from revenues generated from subscribers, and from money, goods or in-kind services donated from private sources. Five percent (5%) of gross revenues and twenty percent (20%) of net profits of OIN shall be dedicated annually to grant programs for the development and implementation of innovative technological applications designed by the OIN Board for the benefit of the educational community and the library system. Initial funding for start-up costs shall be obtained from private donations.

SECTION 10. AMENDATORY 74 O.S. 1991, Section 85.12, as last amended by Section 1, Chapter 246, O.S.L. 1992 (74 O.S. Supp. 1992, 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, Section 85.1 et seq. of this title:

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 rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. 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;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when it is determined by its Board of Directors that an emergency exists and for the services of legal counsel when approved by the Attorney General;

16. 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;

17. 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;

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

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

20. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5009.1 et seq. of this title and Section ~~5~~ 5066.4 of this ~~act~~ title;

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

22. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current state contract and the terms of such contract are more favorable to the agency than the terms of a

state contract for the same products as determined by the State Purchasing Director;

23. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such federal contract are more favorable to the agency than the terms of a state contract for the same products; ~~and~~

24. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.7 of this title. The Director of Public Affairs shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars (\$750.00) and not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) to ensure competitiveness and fairness in such purchases; and

25. Acquisitions of and contracts entered into by the Oklahoma Information Network pursuant to the Oklahoma Information Network Act.

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

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to assure that said purchasing policies and procedures, as approved by him, are being followed.

SECTION 11. This act shall become effective September 1, 1993.

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