

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1329

By: Boyd (Laura)

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 1991, Section 85.32, as amended by Section 1, Chapter 240, O.S.L. 1992 (74 O.S. Supp. 1994, Section 85.32), which relates to preferenced state-produced goods; adding certain preference for Oklahoma-based companies, businesses or enterprises; specifying certain conditions; providing methods; 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, as amended by Section 1, Chapter 240, O.S.L. 1992 (74 O.S. Supp. 1994, Section 85.32), is amended to read as follows:

Section 85.32 A. 1. 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~~ This section 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.~~ 2. For purposes of this section, an article shall be deemed to be produced, manufactured or grown within this state if:

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

~~a.~~ (1) authorized to do and doing business under the laws of this state,

~~b.~~ (2) paying all taxes duly assessed, and

~~c.~~ (3) domiciled within this state by having a location of production or manufacturing within this state; ~~or~~

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

~~a.~~ (1) is authorized to do and doing business under the laws of this state or sell its products through a wholesaler who is,

~~b.~~ (2) has paid all taxes duly assessed, and

~~c.~~ (3) has purchased a dairy product or products used in the production of the article from an Oklahoma producer or producers.

B. 1. For any competitive and noncompetitive bid in the procurement of a state contract for construction, services, professional services, equipment and goods submitted to the state pursuant to the Oklahoma Central Purchasing Act, the State Purchasing Director shall prepare and implement a program offering a two and one-half percent (2 1/2%) bid preference to an Oklahoma-based company, business or enterprise when such preference between in-state and out-of-state bidders offering substantially the same product or service at substantially the same price would cause the Oklahoma-based company, business or enterprise to be the recipient of such contract.

2. The program shall require that for competitive bids a percentage be added to the price of the lowest bid and if the Oklahoma-based company, business or enterprise submits a bid that falls between the lowest bid plus the percentage, it shall receive the contract. Provided, however, in no instance shall the Oklahoma-based company, business or enterprise be entitled to:

- a. both a bid preference under this section and the preference for state-produced goods pursuant to subsection A of this section or the Oklahoma Minority Business Enterprise Assistance Act, or
- b. more than one bid preference pursuant to this section at any one time.

~~C. 3.~~ 3. A person, partnership, company, association or corporation may qualify for the differential provided in this 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~~ subparagraph a or b of paragraph 2 of subsection B of this section have been met.

SECTION 2. This act shall become effective November 1, 1995.

