

ENGROSSED SENATE
BILL NO. 39

By: Fisher of the Senate
and
Roach of the House

An Act relating to Economic Development; amending Section 5, Chapter 285, O.S.L. 1994 (74 O.S. Supp. 1996, Section 5062.8a), which relates to the Quality Jobs Investment Program; changing authority to select and certify investment enterprises for participation in Program from Oklahoma Department of Commerce to Oklahoma Development Finance Authority; and providing an effective date.

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

SECTION 1. AMENDATORY Section 5, Chapter 285, O.S.L. 1994 (74 O.S. Supp. 1996, Section 5062.8a), is amended to read as follows:

Section 5062.8a A. 1. The Oklahoma Development Finance Authority is authorized to attract private investment capital to one or more investment enterprises by either the direct investment of Authority funds or by providing a guarantee to the investment enterprise for the purpose of implementing the Quality Jobs Investment Program established pursuant to this section.

2. As used in this section, "investment enterprise" includes any corporation, limited partnership, or other similar business

entity, including entities qualifying as Small Business Investment Companies under any applicable federal law.

B. There is hereby established the Quality Jobs Investment Program. The primary activities of the Quality Jobs Investment Program shall be:

1. To utilize private and public resources to build a more comprehensive and efficient public and private financing infrastructure for businesses relocating or expanding in ~~the State of Oklahoma~~ this state, and not solely for direct investment, lending or guarantees;

2. To act as an investor, insurer or guarantor of business capital and debt financing in ~~the State of Oklahoma~~ this state;

3. To inform business entities of available public and private capital sources and how to access those sources; and

4. To primarily function as a wholesaler of business capital and credit and rely principally on private institutions to serve as retailers of the business capital and credit market.

C. The Oklahoma ~~Department of Commerce~~ Development Finance Authority shall select on a competitive basis and certify one or more investment enterprises to carry out the activities of the Program. In order to be certified by the ~~Department~~ Authority, the documents of organization of the investment enterprise must be in compliance with the purposes and requirements of the Quality Jobs Investment Program and must promote the activities of the Program, and the investment enterprise must meet the following criteria:

1. Is organized pursuant to Oklahoma law;

2. Has obtained a broad base of investor participation to the extent possible from among the following categories of investors: utility companies, insurance companies, pension systems, foundations, private and public trusts, banks, individuals, corporations, endowment funds, venture capital entities, and other investors and financial institutions; and

3. Will maintain appropriate standards of care of a fiduciary.

D. 1. Only those investment enterprises selected and certified by the Oklahoma ~~Department of Commerce~~ Development Finance Authority pursuant to subsection C of this section may seek from the Authority a direct investment of funds pursuant to this section or a guarantee backed by the allocation of the Credit Enhancement Reserve Fund set forth in Section 5063.4i of ~~Title 74 of the Oklahoma Statutes~~ this title.

2. Contracts entered into by the Authority pursuant to this section shall establish and provide for periodic review of performance standards for each investment enterprise and shall provide that an investment enterprise may continue to draw on an investment or guarantee of the Authority only if the investment enterprise meets such performance standards.

3. The Authority shall, at a minimum, review its obligations to investment enterprises which are backed by the allocation of the Credit Enhancement Reserve Fund at a time when such obligations reach the levels of Ten Million Dollars (\$10,000,000.00), Twenty Million Dollars (\$20,000,000.00) and Thirty Million Dollars (\$30,000,000.00). Only upon satisfaction by the Authority that performance standards established by contract are being achieved by the investment enterprises for the prior level of such obligations, and approval of the Executive and Legislative Bond Oversight Commission, may the Authority allow investment enterprises to draw on the next level of such obligations. Provided, the Authority may reserve any portion of the Forty Million Dollar (\$40,000,000.00) allocation of the Credit Enhancement Reserve Fund for commitment to one or more investment enterprises.

E. Any guarantee provided by the Authority under this section shall be considered an obligation of the Authority for purposes of Section 42 of Article X of the Oklahoma Constitution. The Authority is authorized to issue other obligations in the form of bonds,

notes, or other evidences of indebtedness, to raise funds for investment under this section.

F. 1. Funds invested or obligated pursuant to a guarantee by the Authority in any investment enterprise shall be matched at least equally by private sector investment. Funds guaranteed or invested by the Authority may be employed by an investment enterprise at the same rate but not faster than the investment enterprise employs matching private sector investment. The Authority may only invest in or provide a guarantee to an investment enterprise pursuant to an agreement which provides that the equity of the participating private sector entities must be put at risk or liquidated before any funds or guarantees of the Authority are similarly put at risk or liquidated.

2. The Authority may not issue its obligations for the benefit of individual identified establishments but may only invest in or provide guarantees under this section to or for a prospective pool of investments to be made by investment enterprises. The Authority may review on an annual basis the portfolio of such investments of the investment enterprises.

3. An investment enterprise shall only employ funds invested or guaranteed by the Authority pursuant to this section for the benefit of projects within this state.

G. Directors and staff of the Authority shall not be officers or directors of the investment enterprises receiving investments or other obligations from the Authority. However, the directors and staff may be designated as advisory directors of any such investment enterprises, so that the input and views of the Authority may be considered in any investment decisions.

SECTION 2. This act shall become effective November 1, 1997.

Passed the Senate the 18th day of February, 1997.

President of the Senate

Passed the House of Representatives the ____ day of
_____, 1997.

Speaker of the House of
Representatives