

ENROLLED SENATE
BILL NO. 1355

By: Kerr of the Senate

and

Bonny of the House

An Act relating to economic development; amending 74 O.S. 1991, Sections 5064.4 and 5064.5, as amended by Sections 28 and 29, Chapter 322, O.S.L. 1994, 5064.6, 5064.7, 5064.8 and 5064.9, as amended by Sections 30 and 31, Chapter 322, O.S.L. 1994 (74 O.S. Supp. 1997, Sections 5064.4, 5064.5, 5064.8 and 5064.9), which relate to the inventors assistance program; transferring program and related powers, duties, responsibilities, files, records, and funds from the Oklahoma Department of Commerce to the Oklahoma Center for the Advancement of Science and Technology; conforming language; modifying requirements of the program; modifying description of program and information included in annual report; abolishing certain revolving fund and providing for transfer of funds; 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. 1991, Section 5064.4, as amended by Section 28, Chapter 322, O.S.L. 1994 (74 O.S. Supp. 1997, Section 5064.4), is amended to read as follows:

Section 5064.4 A. The Oklahoma Department of Commerce shall establish a program to provide assistance to inventors. On July 1, 1998, all powers, duties, responsibilities, files, and records relating to the inventors assistance program shall be transferred to the Oklahoma Center for the Advancement of Science and Technology (OCAST).

B. The program shall be designed to:

1. Attract inventors from throughout this state, the nation and other countries and encourage them to submit their proposals for review and evaluation;

2. Provide assistance to inventors whose proposals are accepted which shall include patent searches, market analysis, product research and development, assistance in obtaining financing, business counseling, and any other assistance necessary to develop the product to the commercial stage which is not prohibited by the Constitution or laws of this state and further to protect both the state and the inventor, this section would require a ~~disclosure document~~ provisional patent application or patent application be on file with the U.S. Patent Office before the state will review proposal;

3. Provide assistance and training to inventors to enable the manufacturing, marketing and distribution of their product;

4. ~~Provide assistance to the Inventors and Entrepreneurs Institute~~ Direct inventors to the Inventors Development Society, the Oklahoma Inventors Congress, or other similar organizations for assistance; and

5. Improve the entrepreneurial skills of the state's workforce in order to foster innovation, product development and new high quality jobs.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 5064.5, as amended by Section 29, Chapter 322, O.S.L. 1994 (74 O.S. Supp. 1997, Section 5064.5), is amended to read as follows:

Section 5064.5 ~~The Oklahoma Department of Commerce~~ Center for the Advancement of Science and Technology (OCAST) shall have the power to:

1. Enter into contracts on a competitive bid basis with public and private agencies, institutions, organizations and individuals for the purpose of providing assistance to and services for inventors and entrepreneurs as required by ~~this act~~ Section 5064.1 et seq. of this title;

2. Solicit the support and contributions of public and private agencies, organizations, institutions and individuals;

3. Receive and administer funds for the purpose of operating the inventors and entrepreneurs program;

4. Advertise and promote the inventors and entrepreneurs program;

5. Collect reasonable fees based on actual direct and indirect costs for programmatic services extended to users of the inventors and entrepreneurs program; and

6. Promulgate rules ~~and regulations~~ to implement the provisions of ~~this act~~ Section 5064.1 et seq. of this title.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 5064.6, is amended to read as follows:

Section 5064.6 A. ~~The Oklahoma Department of Commerce~~ Center for the Advancement of Science and Technology (OCAST) shall charge a filing fee of One Hundred Dollars (\$100.00) for each proposal submitted for review and evaluation.

B. After review and evaluation, proposals shall be accepted or rejected for development under the inventors assistance program. ~~The Department~~ OCAST shall not charge for any services to aid in the development of the product. Services may include patent searches, market analysis, product research and development, assistance in obtaining financing, including financing from private sources, and business counseling, if needed. Provided, ~~the Department~~ OCAST shall receive a fee not to exceed an amount equal to ten percent (10%) of all royalties from any product developed under the inventors assistance program for a period of ten (10) years from the first day after royalties are received from the commercial licensing, rental or sale of the product.

C. Before services to aid in the development of the product shall commence, ~~the Department~~ OCAST shall enter into a contract with the inventor which shall include, in addition to any other provisions consistent with the provisions of Section 5064.1 et seq. of this title:

1. The services which ~~the Department~~ OCAST will provide to aid in the development of the product;

2. Any other services which ~~the Department~~ OCAST will assist the inventor in obtaining and for which the inventor shall be liable pursuant to written consent;

3. Authorization for ~~the Department~~ OCAST to receive a fee not to exceed an amount equal to ten percent (10%) of all royalties from the product for a period of ten (10) years; and

4. An agreement from the inventor that all products developed under the program shall be researched, developed, manufactured, packaged and distributed from this state to the extent that it is economically feasible. Provided, the fee not to exceed an amount equal to ten percent (10%) of all royalties from products developed under this program wherever manufactured shall accrue to this state pursuant to the provisions of ~~this act~~ Section 5064.1 et seq. of this title.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 5064.7, is amended to read as follows:

Section 5064.7 A. The following incentives shall be available to inventors for products developed and manufactured in this state and to instate manufacturers of said products; provided, to qualify for the incentives, the product shall be patented or have patent pending pursuant to federal law and shall be registered with the ~~Department of Commerce~~ Oklahoma Center for the Advancement of Science and Technology (OCAST):

1. Royalty earned by an inventor from a product developed and manufactured in this state shall be exempt from state income tax for a period of seven (7) years from January 1 of the first year in which such royalty is received as long as the manufacturer remains in the state; and

2. An instate manufacturer of a product developed in this state by an inventor shall be eligible for a tax credit, as provided for in Section 2357.4 of Title 68 of the Oklahoma Statutes. In addition such manufacturer may exclude from Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, sixty-five percent (65%) of the cost of depreciable property purchased and utilized directly in manufacturing the product. The maximum exclusion shall not exceed Five Hundred Thousand Dollars (\$500,000.00). If the exclusion allowed by this paragraph exceeds the Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, the amount of the exclusion that is in excess of such income may be carried forward as an exclusion against subsequent Oklahoma taxable income or in the case of an individual, subsequent Oklahoma adjusted gross income, for a period not to exceed four (4) years. For the purposes of this paragraph, "depreciable property" means machinery, fixtures, equipment, buildings, or substantial improvements thereto, placed in service in this state during the taxable year.

B. The Oklahoma Tax Commission, in conjunction with the ~~Oklahoma Department of Commerce~~ Center for the Advancement of Science and Technology, shall promulgate rules ~~and regulations~~ to implement the provisions of this section.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 5064.8, as amended by Section 30, Chapter 322, O.S.L. 1994 (74 O.S. Supp. 1997, Section 5064.8), is amended to read as follows:

Section 5064.8 A. There is hereby created in the State Treasury a separate revolving fund for the Oklahoma Department of Commerce, to be designated the "Inventors and Entrepreneurs Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department for implementation of this act from all funds appropriated thereto by the Legislature, all fees received pursuant to this act, any federal funds, gifts, private and matching funds and all contributions dedicated thereto from private, state, federal or whatever source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing this act; however, monies expended for administrative costs shall not exceed five percent (5%)

of the total amount of monies in said fund. Any amount in said fund not directly needed to implement the provisions of this act shall go to the General Revenue Fund of the state. 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.

B. On July 1, 1998, the Inventors and Entrepreneurs Program Fund shall be abolished and any unencumbered funds remaining in the Inventors and Entrepreneurs Program Fund shall be transferred to the credit of the OCAST Research Support Revolving Fund. Any unexpended funds remaining in the Inventors and Entrepreneurs Program Fund after November 1, 1998, shall be transferred to the credit of the OCAST Research Support Revolving Fund.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 5064.9, as amended by Section 31, Chapter 322, O.S.L. 1994 (74 O.S. Supp. 1997, Section 5064.9), is amended to read as follows:

Section 5064.9 The ~~Director~~ President of the Oklahoma ~~Department of Commerce~~ Center for the Advancement of Science and Technology (OCAST) shall ~~submit an annual report on or before December 31 of each year to the Governor and the Legislature which shall include, but not be limited to~~ include in OCAST's annual report on program outcomes program information including:

1. The number of seminars and training programs held for inventors and entrepreneurs and the number of persons attending such seminars and programs;
2. The number of inventors and entrepreneurs assisted; and
3. The number of jobs created and preserved as a result of this program; ~~and~~
4. ~~An estimate of the multiplier effect on the Oklahoma economy as a result of jobs so created and preserved.~~

SECTION 7. This act shall become effective July 1, 1998.

SECTION 8. 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 14th day of May, 1998.

President of the Senate

Passed the House of Representatives the 19th day of May, 1998.

Speaker of the House of Representatives