

ENROLLED SENATE
BILL NO. 121

By: Haney and Hobson of the
Senate

and

Hamilton and Settle of the
House

An Act relating to state government; amending Section 4, Chapter 388, O.S.L. 1994, as amended by Section 13, Chapter 348, O.S.L. 1996 (74 O.S. Supp. 1996, Section 1226.2), which relates to the Native American Cultural and Educational Authority of Oklahoma; amending Section 18, Chapter 388, O.S.L. 1994 (74 O.S. Supp. 1996, Section 1226.16), which relates to audits; amending 82 O.S. 1991, Section 1106, which relates to port authorities; clarifying statutory references; modifying membership of the authority; requiring the Department of Commerce to provide assistance; modifying the entity responsible for conducting certain audit; modifying powers of port authorities; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, Chapter 388, O.S.L. 1994, as amended by Section 13, Chapter 348, O.S.L. 1996 (74 O.S. Supp. 1996, Section 1226.2), is amended to read as follows:

A. There is hereby created a body corporate and politic to be known as the "Native American Cultural and Educational Authority of Oklahoma", and by that name the Authority may sue and be sued, and plead and be impleaded. The Authority is hereby constituted an agency of the state, and the exercise by the Authority of the powers conferred by Section 1226 et seq. of this title shall be deemed to be essential governmental functions of the state with all the attributes thereof. Provided, however, the Authority is authorized to carry liability insurance to the extent authorized by the Authority, and in addition thereto it shall be subject to the

workers' compensation laws of the State of Oklahoma the same as a private employer. The Department of Commerce shall assist the Authority in fulfilling the responsibilities of Section 1226 et seq. of this title, as requested by the authority.

B. The Authority shall consist of six members appointed to serve defined terms, five ex officio members and four appointed members from the business community. Each appointed member and each ex officio member shall have one vote for purposes of conducting the business of the Authority. The six members appointed to serve defined terms shall serve overlapping terms and shall be chosen as follows: two members shall be appointed by the Governor; two members shall be appointed by the Speaker of the House of Representatives; and two members shall be appointed by the President Pro Tempore of the Senate. The appointed members shall be residents of the state, and shall have been qualified electors therein for a period of at least one (1) year preceding their appointment. Each of the members appointed to serve defined terms by the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate respectively shall be a member of a federally recognized American Indian tribe located within this state. Such tribal membership shall be determined by the respective tribes. Appointments shall be made from names provided by tribal governments, councils or other recognized tribal entities. Appointments shall be restricted to not more than one representative of any tribe. Such appointed members initially appointed shall continue in office for terms of from three (3) to seven (7) years, respectively, from the date of their appointment, and thereafter until their respective successors shall be duly appointed and qualified, with the term of each initially appointed member to be designated by the Governor at the time of the appointment, with one member to be appointed to a three-year term, one member to be appointed to a four-year term, one member to be appointed to a five-year term, one member to be appointed to a six-year term, and two members to be appointed to a seven-year term; but their successors shall each be appointed for a term of seven (7) years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. At the expiration of any term, the person holding such office shall continue to serve until such person's duly appointed successor shall be appointed and qualified. Any member of the Authority shall be eligible for reappointment, and no member shall be removed from office except for good cause shown. One ex officio member shall be the Executive Director of the Oklahoma Indian Affairs Commission, or the designee of the same. One ex officio member shall be the Lieutenant Governor, or the designee of same. One ex officio member shall be the Director of the Oklahoma Historical Society, or the designee of same. One ex officio member shall be the Secretary of Commerce, or the designee of same. One ex officio member shall be the Executive Director of the Oklahoma Arts Council, or the designee of same. The four appointed members from the business community shall be chosen as follows: two members shall be appointed by the Governor; one member shall be appointed by the Speaker of the House of Representatives; and one member shall be appointed by the President Pro Tempore of the Senate. Each member shall have at least fifteen (15) years' experience in business, banking, finance or corporate law, and shall have demonstrated outstanding ability in business or industry. At least one of the two appointed members from the Governor shall be a member of a federally recognized American Indian tribe located within this state. The members shall serve at the pleasure of the respective appointing authority.

C. The Authority shall elect one of its members as chairperson, and another as vice-chairperson, and also shall elect a secretary, treasurer and such other officers as the Authority may deem

appropriate. A majority of the members of the Authority (exclusive of vacancies) shall constitute a quorum and the vote of a majority of the members (exclusive of vacancies) shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

D. Before the issuance of any revenue bonds under the provisions of Section 1226 et seq. of this title, each member of the Authority shall execute a surety bond in the penal sum of Twenty-five Thousand Dollars (\$25,000.00) and the secretary and treasurer shall execute a surety bond in the penal sum of One Hundred Thousand Dollars (\$100,000.00), each such surety bond to be conditioned upon the faithful performance of the duties of his or her office, to be executed by a surety company authorized to transact business in the State of Oklahoma as surety, and to be filed in the office of the Secretary of State.

E. The members of the Authority shall not be entitled to compensation for their services, but each member shall be reimbursed for actual expenses necessarily incurred in the performance of duties on behalf of the Authority, provided that members of the Authority shall be compensated for their travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of this title. All expenses incurred in carrying out the provisions of Section 1226 et seq. of this title shall be payable solely from funds provided under the authority of Section 1226 et seq. of this title and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which monies shall have been provided under the authority of Section 1226 et seq. of this title.

SECTION 2. AMENDATORY Section 18, Chapter 388, O.S.L. 1994 (74 O.S. Supp. 1996, Section 1226.16), is amended to read as follows:

The Native American Cultural and Educational Authority of Oklahoma shall conduct an annual audit of its activities and expenditures and report the same to the Governor, the Senate, the House of Representatives and the State Auditor and Inspector by the first day of each year.

SECTION 3. AMENDATORY 82 O.S. 1991, Section 1106, is amended to read as follows:

Section 1106. A port authority established pursuant to Section 1101 et seq. of this title shall have full power and authority to:

1. Purchase, construct, reconstruct, sell, lease, operate, and otherwise contract concerning docks, wharves, warehouses, piers, and other port, terminal, industrial, or transportation facilities within its jurisdiction consistent with the purposes of the port authority, and to make charges for the use thereof;

2. Borrow money from either public or private financial institutions, sources or any agency of the State of Oklahoma or of the United States of America, and to issue therefor such notes or other evidence of indebtedness as may be required and to mortgage, pledge, or otherwise encumber the assets of the authority as security therefor;

3. Apply for, receive, and participate in any grants from the State of Oklahoma or from the United States of America;

4. Straighten, deepen, improve, construct, reconstruct, or extend any canal, channel, river, stream, basin, or other watercourse or way which may be necessary or proper in the development of the facilities of the port;

5. Acquire, own, hold, sell, lease, operate, or otherwise contract concerning real or personal property for the authorized purposes of the port authority;

6. Acquire, own, maintain, sell, or lease land within its jurisdiction as it may deem desirable for the development, planning,

construction, operation, or leasing of land or completed industrial facilities for industrial use which is hereby declared to be for a public purpose;

7. Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the limits of the port authority and to establish, operate, and maintain foreign trade zones;

8. Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for the construction or the efficient operation of any facility of the port authority and included in its official plan, pursuant to the procedure provided by law for railroad companies, if funds equal to the appraised value of the property to be acquired as the result of such proceedings shall be on hand and available for such purposes, except that nothing contained in Sections 1101 to 1114, inclusive, of this title shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of the public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier for the payment of compensation, if any, at the sole cost of the port authority; provided that:

- a. if any restoration or duplication proposed to be made hereunder shall involve a relocation of property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation,
- b. if any restoration or duplication made hereunder shall involve a relocation of such property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in paragraph 3 of this section, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility or common carrier, and
- c. provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority;

9. Maintain such funds as it deems necessary;

10. Direct its agents or employees, when properly identified in writing, and after at least five (5) days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;

11. Sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority;

12. Promote, advertise, and publicize the port and its facilities, provide traffic information and rate information to shippers and shipping interests, and appear before rate making authorities to represent and promote the interests of the port;

13. Repay grants or loans made prior to the effective date of this act where the funds have been expended for a proper purpose of the authority as originally authorized; and

14. Enter into cooperative agreements with one or more other port authorities to exercise any of the powers or to perform any of the duties conferred by this section. Cooperative agreements authorized by this paragraph need not comply with the provisions of the Interlocal Cooperation Act, Section 1001 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 4. This act shall become effective September 1, 1997.