

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL 807

By: Smith of the Senate

and

Toure of the House

AS INTRODUCED

An Act relating to duplicate sections; amending Section 1, Chapter 304, O.S.L. 1994 (60 O.S. Supp. 1998, Section 674.2), as last amended by Section 1 of Enrolled House Bill No. 1817 of the 1st Session of the 47th Oklahoma Legislature, 63 O.S. 1991, Section 2-103, as last amended by Section 1 of Enrolled House Bill No. 1723 of the 1st Session of the 47th Oklahoma Legislature, Section 3, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1998, Section 3603), as last amended by Section 2 of Enrolled Senate Bill No. 467 of the 1st Session of the 47th Oklahoma Legislature, and 74 O.S. 1991, Section 500.2, as last amended by Section 1 of Enrolled Senate Bill No. 349 of the 1st Session of the 47th Oklahoma Legislature, which are duplicate sections; merging and consolidating duplicate sections of law; repealing 10 O.S. 1991, Section 1125.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1998, Section 7005-1.2), and as last amended by Section 3 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, Section 1, Chapter 304, O.S.L. 1994 (60 O.S. Supp. 1998, Section 674.2), as last amended by Section 21 of Enrolled Senate Bill No. 659 of the 1st Session of the 47th Oklahoma Legislature, 63 O.S. 1991, Section 2-103, as last amended by Section 1 of Enrolled House Bill No. 1794 of the 1st Session of the 47th Oklahoma Legislature, Section 3, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1998, Section 3603), as last amended by Section 2 of Enrolled House Bill No. 1230 of the 1st Session of the 47th Oklahoma Legislature, and 74 O.S. 1991, Section 500.2, as last amended by Section 33 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, which are duplicate sections; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 304, O.S.L. 1994 (60 O.S. Supp. 1998, Section 674.2), as last amended by Section 1 of Enrolled House Bill No. 1817 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 674.2 If any person claims an interest in any property delivered to the ~~Oklahoma Tax Commission~~ State Treasurer in which the owner of the property is determined to be deceased, the ~~Commission~~ State Treasurer shall pay over or deliver to the claimant the property as provided in Section 651 et seq. of ~~Title 60 of the Oklahoma Statutes~~ this title upon receipt of the following:

1. A certified copy of letters of administration or letters testamentary from the probate of the estate of the decedent naming the claimant as the personal representative of the estate of the decedent; ~~or~~

2. A certified copy of the decree of distribution from the probate of the estate of the decedent determining the claimant to be entitled to receive such property through the estate of the decedent; or

3. If the value of the property is Five Thousand Dollars (\$5,000.00) or less, a signed affidavit executed by the claimant stating that the claimant is entitled to receive such property, the reason the claimant is entitled to receive such property, that there has been no probate of the estate of the deceased owner, that no such probate is contemplated and that claimant will indemnify the state for any loss, including attorney fees, should another claimant assert a prior right to the property.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 2-103, as last amended by Section 1 of Enrolled House Bill No. 1723 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 2-103. A. The Director shall be appointed by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control

Commission. The Director of Narcotics and Dangerous Drugs Control on January 1, 1984, shall be initially appointed as Director. The succeeding Director shall, at the time of his appointment, have a Bachelor's Degree from an accredited college or university and at least five (5) years' experience in drug law enforcement. The Director may appoint necessary assistants, agents, and other personnel to perform the work of the office and may prescribe their titles and duties and fix their compensation pursuant to Merit System rules. The Director may appoint an employee to the position of Public Information/Education Officer. Said position shall be unclassified and exempt from the rules and procedures of the Office of Personnel Management, except leave regulations. The office of the Director shall be located at a suitable place in Oklahoma City, Oklahoma.

B. 1. Agents appointed by the Director shall have the powers of peace officers generally; provided, the Director may appoint special agents to meet specific investigatory need, who do not meet the age and educational requirements as specified in this section.

2. ~~On and after July 1, 1998, agents~~ Agents appointed on and after November 1, 1998, shall be at least twenty-one (21) years of age and shall have a Bachelor's Degree from an accredited college or university.

3. Each entering agent shall be required to serve one (1) year in a probationary status as a prerequisite to being placed on permanent status.

C. Agents appointed pursuant to the provisions of this section shall have the responsibility of investigating alleged violations and shall have the authority to arrest those suspected of having violated the provisions of the Uniform Controlled Dangerous Substances Act.

D. A commissioned employee of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be entitled to receive

upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement.

E. A commissioned employee of the Bureau may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement upon written approval of the Director.

F. Custody and possession of the sidearm and badge of a commissioned employee killed in the line of duty may be awarded by the Director to the spouse or next of kin of the deceased employee.

G. Custody and possession of the sidearm and badge of a commissioned employee who dies while employed at the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may be awarded by the Director to the spouse or next of kin of the deceased employee.

SECTION 3. AMENDATORY Section 3, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1998, Section 3603), as last amended by Section 2 of Enrolled Senate Bill No. 467 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 3603. A. As used in Section 3601 et seq. of this title:

1. a. "Basic industry" means:
 - (1) manufacturing, as defined or classified under Division D of the Standard Industrial Classification (SIC) Manual, latest version,
 - (2) an activity related to electric services as described by Industry Number 4911 of Major Group 49, Division E of the Standard Industrial Classification (SIC) Manual, latest version, if:
 - (a) an establishment engaged therein qualifies as an exempt wholesale generator as defined by 15 U.S.C., Section 79z-5a,

- (b) the exempt wholesale generator facility consumes from sources located within the state at least ninety percent (90%) of the total energy used to produce the electrical output which qualifies for the specialized treatment provided by the Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, as amended, and federal regulations adopted pursuant thereto,
 - (c) the exempt wholesale generator facility sells to purchasers located outside the state for consumption in activities located outside the state at least ninety percent (90%) of the total electrical energy output which qualifies for the specialized treatment provided by the Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, as amended, and federal regulations adopted pursuant thereto, and
 - (d) the facility is constructed on or after July 1, 1996,
- (3) administrative and auxiliary services that are assigned a one-digit auxiliary code in the SIC Manual, and are described therein as Central Administrative Offices, which means central centers that influence the environment in which data processing, customer service, credit accounting, telemarketing, claims processing and other administrative functions are accomplished,
 - (4) Research, Development and Testing Laboratories,
 - (5) an activity described by Industry Group Number 873 of Major Group 87, Division I of the Standard

Industrial Classification (SIC) Manual, latest revision, Industry Numbers 8731, 8732, 8733 and 8734,

- (6) an activity related to research and development as described by Auxiliary Code Number 2 of the Standard Industrial Classification (SIC) Manual, latest revision,
- (7) warehouses which serve as distribution centers for retail or wholesale businesses, if seventy-five percent (75%) of the inventory processed through such warehouse is shipped out-of-state,
- (8) adjustment and collection services, as defined or classified under Industry Number 7322 of Major Group 73 of the Standard Industrial Classification (SIC) Manual, latest version, if seventy-five percent (75%) of the loans to be serviced were made by out-of-state debtors,
- (9) (a) transportation by air, as defined or classified under Major Group 45 of the SIC Manual, latest version, if the following facilities are located in this state:
 - (i) the corporate headquarters of an establishment classified therein, and
 - (ii) a facility or facilities at which reservations for transportation provided by such an establishment are processed, whether such services are performed by employees of the establishment, by employees of a subsidiary of or other entity affiliated with the establishment or by employees of an entity with whom the

establishment has contracted for the performance of such services; provided, this provision shall not disqualify an establishment which uses an out-of-state entity or employees for some reservations services, or

(b) transportation by air, as defined or classified under Major Group 45 of the SIC Manual, latest version, if an establishment classified therein has or will have within one (1) year sales of at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of this section, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government, or

(10) the following, if an establishment classified therein has or will have within one (1) year sales of at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of this section, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government:

(a) motor freight transportation and warehousing, as defined or classified under

- Major Group 42 of the SIC Manual, latest version,
- (b) arrangement of passenger transportation, as defined or classified under Industry Group 472 of the SIC Manual, latest version,
 - (c) arrangement of transportation of freight or cargo, as defined or classified under Industry Group 473 of the SIC Manual, latest version,
 - (d) insurance carriers, as defined or classified under Major Group 63 of the SIC Manual, latest version,
 - (e) mailing, reproduction, commercial art and photography and stenographic services, as defined or classified under Industry Group 733 of the SIC Manual, latest version,
 - (f) services to dwellings and other buildings, as defined or classified under Industry Group 734 of the SIC Manual, latest version,
 - (g) miscellaneous equipment rental and leasing, as defined or classified under Industry Group 735 of the SIC Manual, latest version,
 - (h) personnel supply services, as defined or classified under Industry Group 736 of the SIC Manual, latest version,
 - (i) computer programming, data processing and other computer-related services, as defined or classified under Industry Group 737 of the SIC Manual, latest version,
 - (j) miscellaneous business services, as defined or classified under Industry Group 738 of the SIC Manual, latest version,

- (k) medical and dental laboratories, as defined or classified under Industry Group 807 of the SIC Manual, latest version,
- (l) engineering and management services, as defined or classified under Major Group 87 of the SIC Manual, latest version,
- (m) communication services, as defined or classified under Industrial Number 4899 of Major Group 48 of the SIC Manual, latest version,
- (n) refuse systems, as defined or classified under Industrial Number 4953 of Major Group 49 of the SIC Manual, latest version, provided that the establishment is primarily engaged in the capture and distribution of methane gas produced within a landfill,
- (o) general wholesale distribution of groceries, as described in Industry Number 5141 of the SIC Manual, latest version, and
- (p) processing of insurance claims, as described in Industry Number 6411 of the SIC Manual, latest version; provided, activities described in Industry Number 6411 of the SIC Manual, latest version, other than processing of insurance claims shall not be included for purposes of this subdivision.

b. An establishment described in subparagraph a of this paragraph shall not be considered to be engaged in a basic industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of Section 3601 et seq. of this title, a basic health

benefits plan to the individuals it employs in new direct jobs in this state which is determined by the Oklahoma Department of Commerce to consist of the following elements or elements substantially equivalent thereto:

- (1) not less than fifty percent (50%) of the premium shall be paid by the employer,
- (2) coverage for basic hospital care,
- (3) coverage for physician care,
- (4) coverage for mental health care,
- (5) coverage for substance abuse treatment,
- (6) coverage for prescription drugs, and
- (7) coverage for prenatal care;

2. "New direct job" means full-time-equivalent employment in this state in an establishment which has qualified to receive an incentive payment pursuant to the provisions of Section 3601 et seq. of this title which employment did not exist in this state prior to the date of approval by the Department of the application of the establishment pursuant to the provisions of Section 3604 of this title. "New direct job" shall include full-time-equivalent employment in this state of employees who are employed by an entity other than the establishment which has qualified to receive an incentive payment and who are leased or otherwise provided to the qualified establishment, if such employment did not exist in this state prior to the date of approval by the Department of the application of the establishment. A job shall be deemed to exist in this state prior to approval of an application if the activities and functions for which the particular job exists have been ongoing at any time within six (6) months prior to such approval;

3. "Estimated direct state benefits" means the tax revenues projected by the Department to accrue to the state as a result of new direct jobs;

4. "Estimated direct state costs" means the costs projected by the Department to accrue to the state as a result of new direct jobs. Such costs shall include, but not be limited to:

- a. the costs of education of new state resident children,
- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents, and
- d. the costs of other state services;

5. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

6. "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll; provided:

- a. except as otherwise provided in this paragraph, the net benefit rate may be variable and shall not exceed five percent (5%),
- b. the net benefit rate shall not exceed six percent (6%) in connection with an establishment which is owned and operated by an entity which has been awarded a United States Department of Defense contract for which:
 - (1) bids were solicited and accepted by the United States Department of Defense from facilities located outside this state,
 - (2) the term is or is renewable for not less than twenty (20) years, and
 - (3) the average annual salary, excluding benefits which are not subject to Oklahoma income taxes, for new direct jobs created as a direct result of the awarding of the contract is projected by the Department of Commerce to equal or exceed Forty Thousand Dollars (\$40,000.00) within three (3)

years of the date of the first incentive payment,
and

- c. in no event shall incentive payments, cumulatively,
exceed the estimated net direct state benefits;

7. "Gross payroll" means wages, as defined in Section 2385.1 of
this title, for new direct jobs; and

- 8. a. "Establishment" means any business or governmental
entity, no matter what legal form, including, but not
limited to, a sole proprietorship; partnership;
corporation or combination of corporations which have
a central parent corporation which makes corporate
management decisions such as those involving
consolidation, acquisition, merger or expansion;
federal agency; political subdivision of the State of
Oklahoma; or trust authority; provided, distinct,
identifiable subunits of such entities may be
determined to be an establishment, for all purposes of
Section 3601 et seq. of this title, by the Department
subject to the following conditions:

- (1) the entity must have a minimum payroll of Two
Million Five Hundred Thousand Dollars
(\$2,500,000.00) and the subunit must also have or
will have a minimum payroll of Two Million Five
Hundred Thousand Dollars (\$2,500,000.00),
- (2) the subunit is engaged in an activity or service
or produces a product which is demonstratively
independent and separate from the entity's other
activities, services or products and could be
conducted or produced in the absence of any other
activity, service or production of the entity,
- (3) has an accounting system capable of tracking or
facilitating an audit of the subunit's payroll,

expenses, revenue and production. Limited interunit overlap of administrative and purchasing functions shall not disqualify a subunit from consideration as an establishment by the Department,

(4) the entity has not previously had a subunit determined to be an establishment pursuant to this section; provided, the restriction set forth in this division shall not apply to subunits which qualify pursuant to the provisions of subparagraph b of paragraph 6 of this subsection, and

(5) it is determined by the Department that the entity will have a probable net gain in total employment within the incentive period.

b. The Department may promulgate rules to further limit the circumstances under which a subunit may be considered an establishment. The Department shall promulgate rules to determine whether a subunit of an entity achieves a net gain in total employment. The Department shall establish criteria for determining the period of time within which such gain must be demonstrated and a method for determining net gain in total employment.

B. The Incentive Approval Committee is hereby created and shall consist of the Director of State Finance, the Director of the Oklahoma Department of Commerce and one member of the Oklahoma Tax Commission appointed by the Tax Commission. It shall be the duty of the Committee to determine, upon initial application on a form approved by the Committee, if an establishment is engaged in a basic industry as defined in subdivision (b) of division (9) or in subdivisions (a) through (o) of division (10) of subparagraph a of

paragraph 1 of subsection A of this section or as otherwise provided by subsection C of this section.

C. For an establishment defined as a "basic industry" pursuant to division (5) or division (6) of subparagraph a of paragraph 1 of subsection A of this section, the Incentive Approval Committee shall consist of the members provided by subsection B of this section and the President of the Oklahoma Center for the Advancement of Science and Technology.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 500.2, as last amended by Section 1 of Enrolled Senate Bill No. 349 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 500.2 A. Officials and employees of the state, traveling on authorized state business, may be reimbursed for expenses incurred in such travel in accordance with the provisions of the State Travel Reimbursement Act and existing statutes relating to state travel. Persons who are not state employees, but who are performing substantial and necessary services to the state which have been directed or approved by the appropriate department official shall enjoy the protection of the sovereign immunity of the state to the same extent as a paid employee. Such persons may be reimbursed for expenses incurred during authorized official travel under these same statutory provisions, provided it is indicated on the claim the person is not a state employee, a description of services performed is entered, and the agency head by his approval of the claim certifies such services were substantial and necessary, and germane to the duties and functions of the reimbursing agency. Travel expenses incurred by a person during the course of seeking employment with a state agency, unless such travel is performed at the request of the employing agency, shall not be considered expenses incurred in performing substantial and necessary services

to the state and shall not be reimbursed under the provisions of the State Travel Reimbursement Act.

B. The chief administrative officer of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Military Department, the Department of Corrections, the Department of Central Services, the Alcoholic Beverage Laws Enforcement Commission, the State Department of Agriculture, the Department of Civil Emergency Management, and the State Fire Marshal may arrange for and charge meals and lodging for a contingent of state personnel moved into an area for the purpose of preserving the public health, safety, or welfare or for the protection of life or property. The cost for meals or lodging so charged shall not exceed the amount authorized in the State Travel Reimbursement Act. The chief administrative officer of each agency involved in such an operation shall require the vendor furnishing meals, lodging, or both meals and lodging to submit an itemized statement for payment. When a claim for lodging is made for a contingent of state personnel, individual members of the contingent may not submit a claim for lodging. When a claim for meals is made for a contingent of state personnel, individual members of the contingent may not submit a claim for meals.

C. The Oklahoma Department of Commerce, the Oklahoma Center for the Advancement of Science and Technology, and the State Department of Agriculture are hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses as may be necessary for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce, the President of the Oklahoma Center for the Advancement of Science and Technology, and the Commissioner of Agriculture shall each provide a quarterly report of

such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

D. For purposes of this section:

1. "State agency" means any constitutionally or statutorily created state board, commission, or department, including the Legislature and the Courts; and

2. State agencies are authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state attending official conferences, meetings, seminars, workshops, or training sessions or in the performance of their duties. Such expenses may be paid directly to the contracting agency or business establishment, provided the meeting qualifies for overnight travel for the employees and the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

3. State agencies are authorized to enter into contracts and agreements for the payment of conference registration expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state attending conferences, meetings, seminars, workshops, or training sessions. Such expenses may be paid directly to the contracting agency or business establishment.

E. State agencies are authorized to make direct purchases of commercial airline tickets for use by employees in approved out-of-state travel. Each claim or invoice submitted to the Director of State Finance for the payment of such purchase shall bear the airline identifying ticket number, the name of the airline, total cost of each ticket purchased, class of accommodation, social security number and name of the employee for whom the ticket was purchased, and shall be filed on claim forms as prescribed by the

Director of State Finance. An affidavit shall state that said employee did use any direct purchase commercial airline ticket received for his or her approved out-of-state travel.

F. 1. The Administrator of the Office of Personnel Management is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Administrator may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

G. 1. The Commissioner of the Department of Mental Health and Substance Abuse Services is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Commissioner may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

H. The Oklahoma Indigent Defense System is hereby authorized to enter into contracts and agreements for the payment of lodging as necessary for employees to carry out their duties in representing any client whom the System has been properly appointed to represent. Such expenses may be paid directly to the contracting agency or business establishment. The cost for lodging for each employee shall not exceed the daily rate as provided in the State Travel Reimbursement Act.

SECTION 5. REPEALER 10 O.S. 1991, Section 1125.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1998, Section 7005-1.2), and as last amended by Section 3 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, Section 1, Chapter 304, O.S.L. 1994 (60 O.S. Supp. 1998, Section 674.2), as last amended by Section 21 of Enrolled Senate Bill No. 659 of the 1st Session of the 47th Oklahoma Legislature, and 74 O.S. 1991, Section 500.2, as last amended by Section 33 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, are hereby repealed.

SECTION 6. REPEALER 63 O.S. 1991, Section 2-103, as last amended by Section 1 of Enrolled House Bill No. 1794 of the 1st Session of the 47th Oklahoma Legislature, and Section 3, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1998, Section 3603), as last amended by Section 2 of Enrolled House Bill No. 1230 of the 1st Session of the 47th Oklahoma Legislature, are hereby repealed.

SECTION 7. Sections 1, 4 and 5 of this act shall become effective November 1, 1999.

SECTION 8. Sections 2 and 6 of this act shall become effective July 1, 1999.

SECTION 9. 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.

47-1-1596

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