

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2319

By: Wilson of the House

and

Shurden of the Senate

An Act relating to tourism; amending 74 O.S. 2001, Section 1804, as last amended by Section 1, Chapter 457, O.S.L. 2003 (74 O.S. Supp. 2003, Section 1804), which relates to the Oklahoma Tourism and Recreation Commission; deleting obsolete language; modifying authority to adopt rules; modifying meeting requirements; providing an effective date; and declaring an emergency.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to tourism; amending 74 O.S. 2001, Section 1804, as last amended by Section 1, Chapter 457, O.S.L. 2003 (74 O.S. Supp. 2003, Section 1804), which relates to the Oklahoma Tourism and Recreation Commission; deleting obsolete language; modifying authority to adopt rules; modifying meeting requirements; amending 74 O.S. 2001, Section 1811.2, which relates to state parks; prohibiting failure to pay charges payable to the Oklahoma Tourism and Recreation Department; providing for punishment; providing for substitute park pass; providing for dismissal of certain charge upon production of certain proof; amending 74 O.S. 2001, Section 840-5.5, as last amended by Section 98 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, which relates to unclassified state employee positions; placing additional positions in the unclassified service; requiring certain leaseholders to furnish certain information to the Oklahoma Tourism and Recreation Commission; requiring certain hearing; requiring notice; requiring certain transcript; providing procedures for approval of certain rates; prohibiting certain conduct; providing for establishment and distribution of certain grievance procedure; amending Section 9, Chapter 343, O.S.L. 2002 (74 O.S. Supp. 2003, Section 1852.3), which relates to sale of state property in Texoma Park; modifying authorized use of certain revenue; providing limitations and restrictions on sale of certain property; providing for codification; 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. 2001, Section 1804, as last amended by Section 1, Chapter 457, O.S.L. 2003 (74 O.S. Supp. 2003, Section 1804), is amended to read as follows:

Section 1804. A. The Oklahoma Tourism and Recreation Commission shall consist of eight (8) members. One member shall be appointed from each congressional district, who shall be a resident and a qualified elector in the district which appointed, and the remaining members shall be appointed from the state at large, one of whom shall possess and maintain a fishing license issued by the Department of Wildlife Conservation, or shall have been active through business or organizations in the promotion of fishing in the State of Oklahoma for at least five (5) years, or shall possess the skills to communicate the views of the fishing community, not only to those who live in the State of Oklahoma, but also to those outside its borders. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. No more than one member shall be from any one county. Commission members shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. At the expiration of the term of each member the Governor shall appoint a successor who shall serve for a

term of six (6) years. The Lieutenant Governor shall serve as an ex officio voting member of the Commission. Whenever a vacancy on the Commission occurs by death, resignation, or otherwise, the Governor shall fill the same by appointment, with the advice and consent of the Senate, and the appointee shall hold office during the unexpired term. Each member shall hold office until his or her successor has been appointed and qualified.

B. No member of the Commission shall seek election to a federal, state, or county office while serving on the Oklahoma Tourism and Recreation Commission.

C. Each member of the Commission, before serving on the Commission, shall take and subscribe to the constitutional and statutory oaths of office and file said oaths with the Secretary of State. Members of the Commission shall be reimbursed for travel expenses to Commission meetings as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

~~D. Within three (3) days after appointment of the Commission, the Governor shall call such Commission to meet at Oklahoma City.~~
The Commission shall be organized by the Governor who shall appoint from the Commission the Chair, the Vice Chair, and the Secretary.

E. The Commission is authorized and directed to adopt rules ~~and regulations~~ as it deems necessary for conducting its business, for performing its duties and responsibilities, and for governing its proceedings.

F. A majority of the Commission shall constitute a quorum for transacting business. The Commission shall meet at least ~~monthly~~ quarterly and may meet more often, such as on a monthly basis, or at such other times as it deems necessary for effectively performing its duties and responsibilities. Special meetings may be called by the Chair or by any three members of the Commission.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 1811.2, is amended to read as follows:

Section 1811.2 A. Park rangers, when commissioned, shall have all the powers of peace officers except the serving or execution of civil process, and shall have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, highway patrolmen and police officers in their respective jurisdictions and shall possess all immunities and matters of defense now available or hereafter made available to sheriffs, the highway patrol, and police officers in any suit brought against them in consequence of acts done in the course of their employment, provided, however, they shall comply with the provisions of Section 3311 of Title 70 of the Oklahoma Statutes.

B. Park rangers, when first appointed, shall be required to serve a probationary period of twelve (12) months. The Director of state parks may extend the probationary period for up to three (3) additional months provided that the employee and the Office of Personnel Management are notified in writing as to such action and the reasons therefor. During such probationary period their services may be terminated at any time in accordance with Department procedure and at the discretion of the Director of State Parks. Retention of the employee, after expiration of the probationary period, shall entitle the employee to be classified as a permanent employee.

C. Notwithstanding any other provision of law, no person may:

1. Discharge fireworks in any posted areas of a state park;
2. Possess any glass container in a designated and posted swim or beach area within a state park;
3. Build a fire within a state park in areas posted as prohibited by the Department;
4. Solicit or demand gifts, money, goods or services within a state park; ~~or~~
5. Sell, hawk, or peddle within a state park any goods, wares, merchandise, liquids, edibles, or any item of value, without having

a contract or lease agreement approved by the Oklahoma Tourism and Recreation Commission; or

6. Fail to pay any fee, rate or charge payable to the Oklahoma Tourism and Recreation Department.

D. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

E. Fifty percent (50%) of all monies collected pursuant to this section shall be deposited in the Oklahoma Tourism and Recreation Department Revolving Fund, and fifty percent (50%) shall be remitted to the county in which the violation is made.

F. 1. Any person arrested while violating the provisions of this section in regard to the payment of a state park entrance fee, may purchase a substitute thirty-day park pass from the arresting park ranger in lieu of posting bond. The fee for a substitute thirty-day park pass purchased pursuant to the provisions of this subsection shall be equivalent to the annual park pass fee in effect at the time of arrest.

2. The fee for a substitute thirty-day park pass purchased pursuant to the provisions of this subsection shall be deposited in the State Park System Improvement Revolving Fund.

G. Unless a substitute annual pass is purchased as provided for by subsection F of this section, any person convicted of violating this provision shall be punished by a fine as identified in subsection D of this section.

H. Any person producing proof in court that a state park entrance fee pass was in force at the time of the alleged offense shall be entitled to dismissal of a charge of violating this section upon payment of court costs; however, if proof of a state park entrance fee pass is presented to the court or district attorney

within seventy-two (72) hours after the violation, the charge shall be dismissed and payment of court costs shall not be required.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended by Section 98 of Enrolled House Bill No 2725 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and Oklahoma Department of Career and Technology Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization

and reappointment of any such person. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period and seasonal employees employed pursuant to Section 1806.1 of this title or seasonal employees employed at the Scenic Rivers Commission who work less than one thousand two hundred (1,200) hours in any twelve-month period. This category of employees may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Department of Public Safety employees occupying the following offices or positions:

- a. two administrative aides to the Commissioner,
- b. executive secretaries to the Commissioner,
- c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,
- d. Highway Patrol Colonel,
- e. Highway Patrol Lieutenant Colonel,
- f. Highway Patrol Major,
- g. Director of Finance,
- h. noncommissioned pilots,
- i. Information Systems Administrator,
- j. Law Enforcement Telecommunications System Specialist,
- k. Director of Driver License Administration,
- l. Director of Transportation Division,
- m. Director of the Alcohol and Drug Countermeasures Unit,
- n. Director of the Oklahoma Highway Safety Office,
- o. Civil Rights Administrator,
- p. Budget Analyst,
- q. Comptroller,
- r. Law Enforcement Highway Patrol Administrator, and

s. a maximum of seven positions for the purpose of administering the Oklahoma Police Corps Program, within full-time employee limitations of the Department, employed with federal funding that is continuing or indefinitely renewable. The authorization for such positions shall be terminated if the federal funding for positions is discontinued; provided, any person appointed to a position prescribed in subparagraphs d, e, f or o of this paragraph shall have a right of return to the classified commissioned position without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position, and any person appointed to a position prescribed in subparagraph i, j, k, l, m or n of this paragraph shall have a right of return to the previously held vacant classified position within the Department of Public Safety without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

- a. an institution of higher learning within The Oklahoma State System of Higher Education,
- b. an institution of higher learning qualified to become coordinated with The Oklahoma State System of Higher Education. For purposes of this section, a student

shall be considered a regularly enrolled student if the student is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, or

c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's full-time-equivalent (FTE) employee limit;

14. Employees of the House of Representatives, the State Senate, or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,

- g. Public Utility Division Deputy Director,
- h. Secretary of the Commission,
- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,
- k. Manager of Field Operations,
- l. Manager of Technical Services,
- m. Public Utility Division Chief of Telecommunications,
and
- n. Director of Information Services;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Bill Willis Community Mental Health and Substance Abuse Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Division Manager,
- c. Network Manager,
- d. Network Technician,
- e. Employees of the Budget Division, and
- f. Employees of the Research Division;

19. Employees of the Oklahoma Development Finance Authority;

20. Those positions so specified in the annual business plan of the Oklahoma Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. Office of Personnel Management employees occupying the following positions:

- a. the Carl Albert Internship Program Coordinator, and
- b. one Administrative Assistant;

24. Department of Labor personnel occupying the following offices and positions:

- a. two Deputy Commissioners,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. two Administrative Assistants;

25. The State Bond Advisor and his or her employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director;

27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

28. The officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:

- a. three Administrative Service Assistant positions, however, employees in such positions who are in the unclassified service on the effective date of this act may make an election to be in the classified service without a loss in salary by September 1, 2003, and
- b. the Deputy Director position in addition to the one authorized by paragraph 2 of this subsection;

31. The Oklahoma State Bureau of Investigation employees occupying the following positions:

- a. five assistant directors,
- b. two special investigators,
- c. one information representative,
- d. one federally funded physical evidence technician,
- e. four federally funded laboratory analysts,
- f. one Data Base Administrator,
- g. two Data Processing Branch Managers,
- h. four Senior Data Processing Applications Specialists,
- i. a total of three positions from the following classes:
Senior Data Processing Systems Specialists, Data

Processing Applications Specialists, or Data
Processing Systems Specialists,

- j. one Senior Computer Services Technician, or Computer Services Technician,
- k. one Senior Computer Services Coordinator, or Computer Services Coordinator, and
- l. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

32. The Department of Transportation, the following positions:

- a. Director of the Oklahoma Aeronautics Commission,
- b. five Department of Transportation Assistant Director positions,
- c. eight field division engineer positions, and
- d. one pilot position;

33. Commissioners of the Land Office employees occupying the following positions:

- a. Director of the Investments Division,
- b. Assistant Director of the Investments Division, and
- c. one Administrative Assistant;

34. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

- a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,
- b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,
- c. one fiscal officer,
- d. one full-time Programmer, and
- e. one full-time Network Engineer;

35. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

36. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

- a. one Oversight Specialist and one Community Development Planner,
- b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and
- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

37. The following positions and employees of the Department of Central Services:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. the Director of Central Purchasing,
- c. one Alternate Fuels Administrator,
- d. one Director of Special Projects,
- e. three postauditors,
- f. four high-technology contracting officers,
- g. one Executive Assistant to the Purchasing Director,
- h. one Contracts Manager,
- i. one Associate Director,
- j. one specialized HiTech/Food Contracting Officer, and
- k. one State Use Contracting Officer;

38. Four Water Quality Specialists, and four Water Resources Division Chiefs within the Oklahoma Water Resources Board;

39. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

- a. Physical Therapists,
- b. Physical Therapist Assistants,
- c. Occupational Therapists,
- d. Certified Occupational Therapist Aides, and
- e. Speech Pathologists;

40. The Development Officer and the Director of the State Museum of History within the Oklahoma Historical Society;

41. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying the following positions:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,
- b. eighteen Agricultural Marketing Coordinator III positions,
- c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the Oklahoma Department of Agriculture, Food, and Forestry during the period of October 1 through May 31 in any fiscal year; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,
- d. one Administrator for Human Resources,
- e. one Director of Administrative Services,
- f. one Water Quality Consumer Complaint Coordinator,
- g. one hydrologist position,

- h. Public Information Office Director,
- i. Market Development Services Director,
- j. Legal Services Director,
- k. Animal Industry Services Director,
- l. Water Quality Services Director,
- m. Forestry Services Director,
- n. Plant Industry and Consumer Services Director,
- o. one Grants Administrator position,
- p. Director of Laboratory Services,
- q. Chief of Communications,
- r. Public Information Manager,
- s. Inventory/Supply Officer,
- t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,
- u. Rural Fire Coordinator,
- v. Poultry Coordinator,
- w. Food Safety Division Director, and
- x. one Mammal Control Officer;

42. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

43. The Development Officer within the Oklahoma Department of Libraries;

44. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

- a. Educational Program Director, and
- b. Data Processing Manager;

45. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

46. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;

47. All officers and employees of the Oklahoma Motor Vehicle Commission;

48. One Museum Archivist of The Will Rogers Memorial Commission;

49. One Fire Protection Engineer of the Office of the State Fire Marshal; and

50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately

upon termination of an unclassified appointment pursuant to this paragraph, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and nurses;
2. Certified public accountants;
3. Licensed attorneys;
4. Licensed veterinarians; and
5. Licensed pharmacists.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later than December 31, 2005, and all unclassified positions established to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any

agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than December 31, 2005. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1803.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Upon the effective date of this act, a leaseholder of a marina franchise in an Oklahoma state park having only one marina as part of the park and which is situated upon a lake that is wholly contained within the borders of the State of Oklahoma shall submit on or before September 15th of each year to the Oklahoma Tourism and Recreation Commission for review proposed rates and terms of the annual or monthly slip rental agreements and services for the following calendar year.

B. On or before October 15th of each year, the Commission shall hold in the county where the marina as described in subsection A is located a public hearing on the proposed rates and terms of the agreements and services. Not less than ten (10) days before the date of the hearing, notice of the hearing shall be published in each newspaper in the county of the hearing, posted at the hearing

location, and served by United States mail to each current slip tenant at the last known mailing address provided by the marina franchise leaseholder at the expense of the Oklahoma Tourism and Recreation Department or by personal delivery and posted in a conspicuous place within the marina.

C. A transcript of the hearing shall be made and delivered to the Commission at the expense of the Oklahoma Tourism and Recreation Department for consideration when approving or disapproving the rates and terms. The Commission shall approve or disapprove the rates and terms at its next regular meeting following the public hearing. If the rates or terms are disapproved by the Commission, the Commission shall designate a person or persons from the Commission staff to negotiate the rates and terms for further consideration and approval by the Commission. If an agreement can not be reached on the proposed rates and terms, the current rates shall not be increased and the current terms shall not be altered.

D. Any retaliatory conduct by any marina franchise leaseholder toward any person attending or speaking at such public hearings or otherwise communicating with state officials relating to marina operations shall be grounds for termination of the franchise lease agreement.

E. Within thirty (30) days after the effective date of this act, the Oklahoma Tourism and Recreation Department shall establish a grievance procedure to provide for prompt and equitable resolution of grievances initiated by a slip tenant against any leaseholder of a marina franchise in an Oklahoma state park having only one marina as part of the park and which is situated upon a lake that is wholly contained within the borders of the State of Oklahoma. The grievance resolution procedure shall include but not be limited to requirements guaranteeing the tenant that his or her grievance will be heard by a grievance panel designated by the Department. The Department shall provide a copy of the grievance procedure to the

marina franchise leaseholder by certified mail, return receipt requested, and a copy by United States mail to each current clip tenant at the last known mailing address provided by the marina franchise leaseholder at the expense of the Department.

F. The use and occupation of the leased premises shall be subject to the general supervision and approval of the Commission and such rules as may be prescribed by the Commission from time to time.

SECTION 5. AMENDATORY Section 9, Chapter 343, O.S.L. 2002 (74 O.S. Supp. 2003, Section 1852.3), is amended to read as follows:

Section 1852.3 A. The Oklahoma Tourism and Recreation Commission is authorized to sell real estate and personal property owned or acquired by the State of Oklahoma or the Oklahoma Tourism and Recreation Department, now or in the future, and under the jurisdiction of the Commission located within Marshall County and situated within Texoma State Park.

B. The sale of real estate and personal property authorized pursuant to subsection A of this section shall be subject to all existing easements and reservations of record. The Commission or Department shall transfer any interests held, including but not limited to licenses, operating permits and leasehold interests to a subsequent purchaser.

C. The Commission and Department shall utilize the procedure pursuant to Section 129.4 of Title 74 of the Oklahoma Statutes for such sale; provided, however, all monies received from the sale of these properties, except those monies necessary to pay the expenses incurred pursuant to the sale, shall be deposited in the Oklahoma Tourism and Recreation Department Revolving Fund 215 ("215 Fund"). Revenue derived from such real estate and personal property sale deposited to the fund shall be utilized for ~~the benefit of the state park system~~ further improvements in and around Lake Texoma as provided for in subsection D. Such real estate and personal

property sale shall not be subject to the provisions of Section 456.7 of Title 74 of the Oklahoma Statutes.

D. For every developed acre of land containing recreational vehicle campgrounds and other campgrounds that is sold pursuant to this section, an equivalent amount of replacement land shall be selected by the Oklahoma Tourism and Recreation Department in a suitable area at Lake Texoma or in the vicinity, and developed to provide comparable outdoor public recreation facilities for operation as part of the Oklahoma state park system.

E. Any sale of real estate or personal property described in subsection A and authorized by any other provision of law, whether made between the Oklahoma Tourism and Recreation Commission and a private entity, tribal government or investment in or acquisition, exchange or grant between the Oklahoma Tourism and Recreation Commission or any other agency of state government, shall be subject to the following provisions:

1. The state employees at Texoma State Park, Lake Texoma Lodge, or any facility located on property described in subsection A, shall have primacy in any and all employment opportunities created by any successor operator of facilities located on property described in subsection A that is owned and operated by the Oklahoma Tourism and Recreation Department on the effective date of this act;

2. Any sale, investment, acquisition, exchange or grant of property described in subsection A and authorized by any other provision of law shall ensure a fair return to the Oklahoma Tourism and Recreation Department to be distributed as provided for in subsections C and D hereof;

3. Any such sale, investment, acquisition, exchange or grant of property described in subsection A and authorized by any other provision of law must lead to the highest and best use of the property;

4. Existing concessionaires in and around the park shall be consulted and given opportunities to participate in any business opportunities and improvements resulting from any sales, investment, exchange or grant of property described in subsection A and authorized by any other provision of law. Any concessionaires operating under valid contracts with the Oklahoma Tourism and Recreation Department on the effective date of this act shall have first rights for renewing said contracts for a period of not less than twenty (20) years from said sale, investment, acquisition, exchange or grant.

5. Any such sale, investment, acquisition, exchange or grant of any real property described in subsection A and authorized by any other provision of law shall include a provision that real estate currently occupied by the Lake Texoma Association, including its headquarters building, be granted to the association which shall be allowed to remain at its current location.

SECTION 6. This act shall become effective July 1, 2004.

SECTION 7. 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 13th day of April, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2004.

Presiding Officer of the House
of Representatives