

EHB 2478

THE STATE SENATE
Thursday, April 8, 2004

ENGROSSED

House Bill No. 2478

As Amended

ENGROSSED HOUSE BILL NO. 2478 - By: McCLAIN of the House and RABON of the Senate.

[revenue and taxation - amending 68 O.S., Section 2357.39 - tourism project agreements - effective date - emergency]

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.39, is amended to read as follows:

Section 2357.39 A. Upon granting final approval, the Director of the Oklahoma Tourism and Recreation Department may enter into an agreement with an approved company with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but shall not be limited to:

1. The amount of approved costs, which shall be determined by negotiations between the Director and the approved company;

2. A date certain by which the approved company shall have completed the tourism attraction project. Within three (3) months of the completion date, the approved company shall document the actual cost of the tourism attraction project through a certification of the costs by an independent certified public accountant acceptable to the Director; and

1 3. The following provisions:

2 a. the term of the agreement shall be ten (10) years from
3 the later of:

4 (1) the date of the final approval of the tourism
5 attraction project, or

6 (2) the completion date specified in the agreement,
7 if the completion date is within two (2) years of
8 the date of the final approval of the tourism
9 attraction project. However, the term of the
10 agreement may be extended for up to two (2)
11 additional years by the Director, with the advice
12 and consent of the Oklahoma Tax Commission, if
13 the Director determines that the failure to
14 complete the tourism attraction project within
15 two (2) years resulted from:

16 (a) unanticipated and unavoidable delay in the
17 construction of the tourism attraction
18 project,

19 (b) an original completion date for the tourism
20 attraction project, as originally planned,
21 which will be more than two (2) years from
22 the date construction began, or

1 (c) a change in business ownership or business
2 structure resulting from a merger or
3 acquisition,
4 b. in any tax year during which an agreement is in
5 effect, if the amount of income tax due from the
6 approved company exceeds the state income tax credit
7 available to the approved company, then the approved
8 company shall pay the excess to this state as income
9 tax, and if in any tax year during which an agreement
10 is in effect, if the amount of sales tax to be
11 remitted by the approved company exceeds the sales tax
12 credit available to the approved company, then the
13 approved company shall pay the excess to this state as
14 sales tax,
15 c. within forty-five (45) days after the end of each
16 calendar year, the approved company shall supply the
17 Director with such reports and certifications as the
18 Director may request demonstrating to the satisfaction
19 of the Director that the approved company is in
20 compliance with the provisions of the Oklahoma Tourism
21 Development Act, and
22 d. the approved company shall not receive an inducement
23 with respect to any calendar year if:

1 (1) in any calendar year following the fourth year of
2 the agreement, the tourism attraction project
3 fails to attract at least ~~twenty-five percent~~
4 ~~(25%)~~ fifteen percent (15%) of its visitors from
5 among persons who are not residents of this
6 state, or

7 (2) in any calendar year following the first year of
8 the agreement, the tourism attraction project is
9 not operating and open to the public on a regular
10 and consistent basis.

11 B. The agreement shall not be transferable or assignable by the
12 approved company without the written consent of the Director.

13 C. If the approved company utilizes inducements which are
14 subsequently disallowed, then the approved company will be liable
15 for the payment to the Tax Commission of all taxes resulting from
16 the disallowance of the inducements plus applicable penalties and
17 interest.

18 D. The Director shall provide a copy of each agreement entered
19 into with an approved company to the Tax Commission.

20 SECTION 2. This act shall become effective July 1, 2004.

21 SECTION 3. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-30-04 - DO PASS,
4 As Amended.