

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2478:

McClain

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 2357.39, which relates to tourism project agreements; modifying certain requirement in the agreements; providing an effective date; and declaring an emergency.

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

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

3. The following provisions:

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

- (1) the date of the final approval of the tourism attraction project, or
  - (2) the completion date specified in the agreement, if the completion date is within two (2) years of the date of the final approval of the tourism attraction project. However, the term of the agreement may be extended for up to two (2) additional years by the Director, with the advice and consent of the Oklahoma Tax Commission, if the Director determines that the failure to complete the tourism attraction project within two (2) years resulted from:
    - (a) unanticipated and unavoidable delay in the construction of the tourism attraction project,
    - (b) an original completion date for the tourism attraction project, as originally planned, which will be more than two (2) years from the date construction began, or
    - (c) a change in business ownership or business structure resulting from a merger or acquisition,
- b. in any tax year during which an agreement is in effect, if the amount of income tax due from the approved company exceeds the state income tax credit available to the approved company, then the approved company shall pay the excess to this state as income tax, and if in any tax year during which an agreement is in effect, if the amount of sales tax to be remitted by the approved company exceeds the sales tax credit available to the approved company, then the

approved company shall pay the excess to this state as sales tax,

c. within forty-five (45) days after the end of each calendar year, the approved company shall supply the Director with such reports and certifications as the Director may request demonstrating to the satisfaction of the Director that the approved company is in compliance with the provisions of the Oklahoma Tourism Development Act, and

d. the approved company shall not receive an inducement with respect to any calendar year if:

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

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

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

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

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

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

SECTION 3. 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.

49-2-7908          DLW          01/16/04