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THE STATE SENATE
Wednesday, March 1, 2006

Committee Substitute for
Senate Bill No. 1453

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1453 - By: WILSON of the Senate and BROWN of the House.

An Act relating to tourism and recreation; amending Sections 14, 31, 35, 38 and 43, Chapter 363, O.S.L. 2005 (74 O.S. Supp. 2005, Sections 2213, 2230, 2234, 2237 and 2242), which relate to the Oklahoma Tourism and Parks and Recreation Enhancement Act; updating statutory references; deleting obsolete language; providing access to certain material during certain periods; excepting division from providing certain copies; adding certain position to unclassified service; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 14, Chapter 363, O.S.L. 2005 (74 O.S. Supp. 2005, Section 2213), is amended to read as follows:

Section 2213. The Commission may contract for the study, analysis, and planning as reasonably necessary to aid in determining the feasibility of leasing, selling or privately managing or developing the property or facilities under the control of the Commission. The Commission shall be exempt from the competitive bidding requirements of the ~~Competitive Bidding~~ Oklahoma Central Purchasing Act for the purpose of soliciting, negotiating, and effectuating such a contract or contracts.

1 SECTION 2. AMENDATORY Section 31, Chapter 363, O.S.L.
2 2005 (74 O.S. Supp. 2005, Section 2230), is amended to read as
3 follows:

4 Section 2230. A. The Division of Travel and Tourism shall:

- 5 1. Encourage the orderly growth and development of tourism to
6 and within the state by preparing and maintaining a comprehensive
7 five-year travel development master plan and supporting marketing
8 plan jointly with the private sector;
- 9 2. Create and convey an accurate, responsible, and elevated
10 image of the state and its natural, cultural, historical, and
11 recreational attractions and events;
- 12 3. Organize, coordinate, and conduct state, regional, national,
13 and international marketing programs to increase the number of
14 domestic and international travelers to Oklahoma;
- 15 4. Create, develop, produce, distribute, implement, and
16 evaluate the effectiveness of public information programs, including
17 publicity, brochures, public relations activities, film and slide
18 production, still and audio visual photography, digital and
19 electronic media, public service programs, advertising, and other
20 informational aids for the promotion of tourism to the general
21 public and the media;

- 1 5. Coordinate, advise and provide technical assistance to
2 cities, counties, and regional tourism organizations in the state in
3 the planning, development, and execution of tourism programs;
- 4 6. Cooperate and participate with neighboring states and the
5 federal government to promote travel from domestic and international
6 markets;
- 7 7. Develop and partner with other entities of government and
8 private entities to obtain timely research data to measure traveler
9 volume and economic impact, determine traveler profiles, evaluate,
10 and analyze market and advertising effectiveness;
- 11 8. Plan, coordinate, and conduct statewide conferences,
12 seminars, and workshops to inform and educate representatives from
13 the public and private sector in the state about programs and travel
14 trends which affect the tourism industry;
- 15 9. Provide organization and coordination assistance to public
16 and private tourism promotion organizations for participation in
17 cooperative advertising and promotion opportunities with the
18 Department, including travel trade marketplaces, consumer sport,
19 travel, and recreation shows within and outside the state;
- 20 10. Administer matching grant programs to multicounty
21 organizations which promote travel and tourism to their areas of the
22 state that are consistent and coordinated with the statewide travel
23 marketing plan; and

1 11. Assist other state agencies with special tourism promotion
2 projects, development of professional training opportunities and
3 other projects which provide services to travelers.

4 B. The Division may facilitate travel to and within the state
5 by encouraging development of a tourism industry infrastructure
6 which provides investment incentives to tourism businesses and
7 tourism product development.

8 C. The Division may contract with professionally qualified
9 companies or individuals for services to assist in the development
10 and production of advertising, promotion, publicity, and public
11 relations programs, primary and secondary research data collection
12 including analysis of state travel marketing programs and economic
13 impact information.

14 D. The Division may plan, construct, lease, operate, and
15 maintain state-of-the-art tourism information centers and a central
16 fulfillment warehouse. The centers shall be utilized for the
17 purpose of providing services, selling merchandise, and distributing
18 information to travelers on the tourism facilities and opportunities
19 in the state.

20 E. The Division may, upon approval of the Commission, lease for
21 a reasonable rate, retail and advertising space in state-operated
22 tourism information centers. A performance bond, certificate of

1 deposit, letter of credit, or cash equivalent, may be required by
2 the Commission on any such lease.

3 F. Photographs, film recordings, video recordings, digital
4 records and like recordings or records produced by or for the
5 Division shall be available for public inspection during Division
6 business hours; however, the Division shall not be required to
7 provide copies or allow copying of the materials.

8 SECTION 3. AMENDATORY Section 35, Chapter 363, O.S.L.
9 2005 (74 O.S. Supp. 2005, Section 2234), is amended to read as
10 follows:

11 Section 2234. A. The Department, with the approval of the
12 Commission, shall develop rules to administer any of the matching
13 funds derived from the Department for the allowable expenditures of
14 multicounty organizations. The rules shall be developed in
15 accordance with this section and shall be adopted by the Commission.
16 As used in the Oklahoma Tourism, Parks and Recreation Enhancement
17 Act:

18 1. "Multicounty organization" means a nonprofit organization
19 which satisfies the following requirements:

20 a. its primary purpose is to promote the tourism
21 attributes of a multiple-county region which is
22 identified as a tourism "country" or "lake" area, or

- 1 any other organization participating in the matching
2 funds program on July 1, 2001,
- 3 b. it is governed by a board of directors elected by the
4 membership of the organization,
 - 5 c. it is governed by a board of directors which equitably
6 represents the counties within the multiple-county
7 region,
 - 8 d. it has an administrator of operations position who is
9 not an elected director,
 - 10 e. it utilizes income from private sector sources as the
11 basis for funding its administrative and promotion
12 expenses, and
 - 13 f. it has provided to the Department an independent and
14 certified financial-~~related~~ audit for the preceding
15 fiscal year;

16 2. "Administrative expenditure" means expenditures for the
17 administration of fund raising and tourism promotion.
18 Administrative expenditures shall include salaries, payroll taxes,
19 insurance, personal services contracts, travel expenses not to
20 exceed the amounts provided in the State Travel Reimbursement Act,
21 rent, lease or purchase of facilities, office supplies, telephone
22 and electronic communications and multicounty organization audit
23 costs;

1 3. "Allowable expenditures" means expenditures by a multicounty
2 organization submitted to the Department for matching funds in
3 accordance with the provisions of this section and the rules
4 promulgated by the Commission;

5 4. "Discretionary expenditure" means those expenditures by
6 multicounty organizations for which matching funds are not
7 requested. Discretionary expenditures are not subject to the
8 limiting provisions of this section and the rules promulgated by the
9 Commission;

10 5. "Independent and certified audit" means a financial-~~related~~
11 audit performed in accordance with Generally Accepted Government
12 Auditing Standards, issued by the Comptroller General of the United
13 States. The scope of the audit shall, at a minimum, consist of a
14 statement of revenue and expenditures and shall include the specific
15 requirements identified in this section and the rules promulgated by
16 the Commission; and

17 6. "Tourism promotion expenditure" means an expenditure for the
18 preparation, printing, publication and distribution of media
19 advertising in brochures, news and publicity materials, travel
20 posters, mailing pieces, newspapers, magazines, television, radio,
21 billboards, advertising and promotional specialties, exhibit space
22 and displays at trade shows and conventions and the expenses for
23 operating such exhibits, including travel expenses, not to exceed

1 amounts provided for in the State Travel Reimbursement Act, the cost
2 of a travel writer, travel agent, tour broker and tour operator
3 familiarization tours into the State of Oklahoma, and registration
4 fees for an annual tourism and recreation industry conference with
5 the purpose of attracting tourists or generating travel or tourism
6 activity within the state or multicounty organization areas. The
7 amount expended within the multicounty organization area for tourism
8 promotion shall not exceed fifty percent (50%) of the total of
9 allowable expenditures and allocated matching funds.

10 B. It is the intent of the Legislature to encourage the
11 promotion of tourism by multicounty organizations in cooperation
12 with the statewide program of the Department. Allowable
13 administrative expenditures by multicounty organizations shall not
14 exceed forty percent (40%) of the lesser of either the total amount
15 allocated, including reallocations, to the organization from
16 appropriations made by the Legislature or the total of the matched
17 expenditures. The limitation on administrative expenditures applies
18 only to those expenditures submitted for matching with state-
19 appropriated funds.

20 C. With the exception of those organizations identified as
21 "country" or "lake" associations participating in the matching funds
22 program on July 1, 2001, not more than one organization representing

1 a recognized "country" or "lake" area shall be eligible to receive
2 matching funds.

3 D. Matching funds for the allowable expenditures shall be based
4 upon actual expenditures by the multicounty organization less any
5 discount, refund, or rebate to the multicounty organization.
6 Multicounty organizations shall use a State of Oklahoma Notarized
7 Claim Form with all applicable statements and affidavits to request
8 matching funds for the allowable expenditures.

9 E. In order for a multicounty organization to receive matching
10 funds for expenditures incurred to publish and distribute a
11 promotional periodical emphasizing the attractions, landmarks,
12 activities, geographical features and other characteristics of
13 counties within the multicounty organization's area of
14 responsibility, the multicounty organization shall be subject to the
15 following requirements:

16 1. Maintain an account with a financial institution subject to
17 the regulatory control of a state or federal financial regulatory
18 entity for the deposit and withdrawal of all funds collected by or
19 on behalf of the multicounty organization;

20 2. Prepare an annual Statement of Income and Expense showing
21 all deposits to the account maintained with the financial
22 institution and all withdrawals from the account with the financial

1 institution for the period covered by the annual income and expense
2 statement;

3 3. May enter into a contract with a person or legally organized
4 business entity for the solicitation of advertising revenue in a
5 promotional periodical publication and for the publication and
6 distribution of the periodical emphasizing the attributes of sites,
7 scenes, businesses and attractions located within the area for which
8 the multicounty organization is responsible if:

9 a. the person or legally organized business entity
10 provides a detailed written disclosure to the
11 multicounty organization of its actual costs incurred
12 in performance of the contract on a periodic basis
13 during the period prescribed in the contract for
14 performance which disclosure shall be at least
15 quarterly,

16 b. the multicounty organization ensures that the actual
17 cost of publication for the promotional periodical is
18 printed in at least 10-point type somewhere in the
19 body of the publication,

20 c. the multicounty organization ensures that the person
21 or legally organized business entity performing
22 services on behalf of the multicounty organization
23 identifies to the multicounty organization each

1 purchaser of advertising in the multicounty
2 organization promotional periodical, the amount of
3 money paid for advertising in the promotional
4 periodical, and the size or other relevant
5 characteristics of the material purchased for
6 publication in the promotional periodical,
7 d. the person or legally organized business entity
8 soliciting advertising revenue may not advance or
9 deposit their own funds as a means of securing
10 matching state funds, and such acts shall be deemed as
11 fraud, subject to prosecution, and
12 e. the multicounty organization and the person or legally
13 organized business entity acting on behalf of the
14 multicounty organization both execute a statement,
15 upon a form to be prescribed by the State Auditor and
16 Inspector, under oath, that any funds being requested
17 from the Department for matching of an allowable
18 expenditure as authorized by this section represent an
19 amount of money equal to an amount of money that has
20 previously been deposited into the account maintained
21 by the multicounty organization as of the date the
22 request for matching funds is made. The statement
23 shall include the identity of each purchaser of

1 advertising in the multicounty organization
2 promotional periodical and the amount of money paid
3 for advertising in the periodical together with the
4 other information required by subparagraph c of this
5 paragraph. The statement shall also include a
6 verification that the funds collected by or on behalf
7 of the multicounty organization were expended for:
8 (1) a legitimate operational expense of the
9 multicounty organization,
10 (2) the purpose of obtaining matching funds as
11 authorized by this section, or
12 (3) a promotional event sponsored, conducted or
13 organized by the multicounty organization for
14 attracting attention to a specific location or
15 occasion in furtherance of a purpose of the
16 multicounty organization.

17 F. 1. Each multicounty organization shall prepare and submit
18 appropriate plans, including a budget work program, for the ensuing
19 fiscal year to the Commission. Expenditures for obligations
20 incurred before the Commission approves the multicounty
21 organizations' plans and budget work programs and any changes
22 thereto, and expenditures not in accordance with the multicounty
23 organizations' plans and budget work programs, shall not be

1 allowable expenditures. The approval by the Commission of a
2 multicounty organization budget work program constitutes a firm
3 commitment of the multicounty organization's appropriated funds,
4 subject to any fiscal year limitation, except that the Commission
5 may reallocate unobligated funds as provided by law.

6 2. Any funds collected on behalf of the multicounty
7 organization for advertisements in the promotional periodical shall
8 be paid to the multicounty organization within twenty (20) working
9 days after collection by any entity acting on behalf of the
10 multicounty organization for solicitation of advertising revenue.
11 The multicounty organization shall deposit any funds paid to it
12 within five (5) working days of receipt.

13 G. Each multicounty organization shall be required to submit an
14 annual independent and certified audit of the multicounty
15 organization. The audits shall encompass all funds available to the
16 multicounty organization. The audit report shall include a
17 statement of Income and Expense and, at a minimum, encompass all
18 monies received by the multicounty organization and all matched
19 expenditures reimbursed to the multicounty organization. Revenue
20 reported shall include all advertising revenue received and define
21 all other individual sources of revenue. The names and addresses of
22 and amounts received from each advertiser shall be included as an
23 unaudited supplemental schedule to the audit report.

1 H. The person or entity engaged to perform the audit required
2 by subsection G of this section shall:

3 1. Not be the same person or entity that performs bookkeeping,
4 controllership or management functions, or other accounting services
5 for the multicounty organization;

6 2. Be registered with the Oklahoma Accountancy Board and
7 possess a license to practice; and

8 3. File a copy of the audit performed on behalf of a
9 multicounty organization with the State Auditor and Inspector.

10 I. Failure to submit an audit report shall be cause for
11 withholding of matching funds to a multicounty organization. Audit
12 reports showing matching by any amount in excess of the allowable
13 expenditures, matching for unallowable expenditures, or
14 noncompliance with statutes, procedures prescribed herein, or in
15 rules promulgated by the Commission shall be cause for withholding
16 of matching funds until such time as restitution is made to the
17 Department.

18 J. The State Auditor and Inspector shall conduct an office
19 examination of the audits filed pursuant to paragraph 3 of
20 subsection H of this section on an annual basis. The examination
21 shall include analysis of the quality of the audit performed and
22 shall include written recommendations for modifications in future
23 audits conducted on behalf of a multicounty organization.

1 SECTION 4. AMENDATORY Section 38, Chapter 363, O.S.L.
2 2005 (74 O.S. Supp. 2005, Section 2237), is amended to read as
3 follows:

4 Section 2237. A. "Oklahoma Today Magazine" is hereby
5 authorized to sell advertising. All advertising shall be approved
6 by the appropriate division director prior to acceptance for
7 publication.

8 B. In addition to a regular salary, any employee of the
9 "Oklahoma Today Magazine" who obtains advertising, bulk
10 subscription, newsstand, or ancillary product sales, for "Oklahoma
11 Today Magazine", at the discretion of the Executive Director, may be
12 awarded additional compensation in the form of a commission on net
13 sales by the employee. The commission shall not exceed twenty-five
14 percent (25%), with the commission percentage to be determined by
15 the Executive Director. In no case shall the additional
16 compensation, when combined with the salary of the employee, exceed
17 ninety-five percent (95%) of the salary of the Executive Director.
18 Commission payments shall be paid monthly, based on collected
19 revenues from sales by the employee.

20 C. The sale of advertising and negotiation of rates for the
21 advertising shall not be subject to the ~~Public Competitive Bidding~~
22 Oklahoma Central Purchasing Act of 1974 or the Administrative
23 Procedures Act.

1 D. "Oklahoma Today Magazine" articles, and photographs produced
2 by or for "Oklahoma Today Magazine", shall be available for public
3 inspection during Department business hours. The Department shall
4 not be required to provide copies or allow copying of the magazine,
5 articles, or photographs other than as the Department provides
6 copies of "Oklahoma Today Magazine" for newsstand and subscription
7 sales.

8 SECTION 5. AMENDATORY Section 43, Chapter 363, O.S.L.
9 2005 (74 O.S. Supp. 2005, Section 2242), is amended to read as
10 follows:

11 Section 2242. A. The offices and positions of the Executive
12 Director, the Deputy Director, Directors of the Divisions of the
13 Department herein created, and administrative assistant of each
14 shall be in the unclassified service and shall not be subject to the
15 Merit System of Personnel Administration.

16 B. The following positions in the Travel and Tourism Division
17 within the Department filled after the effective date of the
18 Oklahoma Tourism, Parks and Recreation Enhancement Act shall be in
19 the unclassified service:

- 20 1. All positions in the Traveler Response Information Program;
21 2. All professional or managerial positions in the Division,
22 ~~except those in the tourism information centers;~~

1 3. Any position associated with the development and production
2 of "Oklahoma Today Magazine"; and

3 4. Any position in the Division of State Parks utilized in the
4 operation and administration of state resorts, cabins, lodges, and
5 golf courses.

6 SECTION 6. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

10 COMMITTEE REPORT BY: COMMITTEE ON TOURISM & WILDLIFE, dated 2-16-06
11 - DO PASS, As Amended and Coauthored.