CS for SB 918

THE STATE SENATE

Wednesday, March 2, 2005

Committee Substitute for

Senate Bill No. 918

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 918 - By: GUMM of the Senate and COVEY of the House.

[public finance and state government - creating Funds – codification - effective date – emergency]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 46 of Title 62, unless there is created a duplication in numbering, reads as follows:

Any surplus funds which accrue to the General Revenue Fund of the State of Oklahoma over and above that which is placed in the Constitutional Reserve Fund pursuant to Section 23 of Article X of the Constitution of the State of Oklahoma shall be apportioned as follows:

1. Fifty percent (50%) to the Economic Development Research Endowment Fund established in Section 2 of this act; and

2. Fifty percent (50%) to the Helping Oklahomans Prosper Economically Fund established in Section 3 of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 46.1 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a trust fund to be known as the "Economic Development Research Endowment Fund". The trust fund principal shall consist of monies which are apportioned pursuant to paragraph 1 of Section 1 of this act, received by the State of Oklahoma by donation and any other monies that may be appropriated or otherwise directed to the trust fund by the Legislature for the purpose of funding activities which support research and the transfer of technology to the private sector.

B. The Economic Development Research Endowment Fund shall be administered by the Oklahoma Science and Technology Research and Technology Board. The Board shall have the duty of investing monies accruing to the trust fund, subject to restrictions and limitations provided by law for and in accordance with laws applicable to the investment of monies in state retirement funds.

C. Earnings from the trust fund, including, but not limited to interest, dividends, and realized capital gains from investments of the trust fund, shall be expended for activities which support research and the transfer of technology to the private sector including, but not limited to, providing matching funds and investment capital, purchasing equipment, constructing facilities and developing information service networks.

D. Each fiscal year, the Board may expend the amount of earnings which actually accrued to the trust fund during the

preceding fiscal year. Any amount not expended shall remain in the trust fund. The Board shall direct specific expenditures to be made for the purposes specified in subsection C of this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 46.2 of Title 62, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Treasurer to be designated the "Helping Oklahomans Prosper Economically Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies which are apportioned pursuant to paragraph 2 of Section 1 of this act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Treasurer for the purpose of providing payments to all Oklahoma residents who have filed an income tax return during the preceding tax year. The amount of such payments shall be determined by dividing the total monies deposited in the fund during the preceding fiscal year by the total number of Oklahoma residents who filed an income tax return during the preceding tax year. During each year funds accrue pursuant to Section 1 of this act, the Oklahoma Tax Commission shall provide the State Treasurer with information necessary for such payments to be issued.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 5060.9, as amended by Section 9, Chapter 484, O.S.L. 2002 (74 O.S. Supp. 2004, Section 5060.9), is amended to read as follows:

Section 5060.9 A. The Oklahoma Science and Technology Research and Development Board shall have the power to:

1. Make, amend and repeal bylaws for the management of the Center and the Institute;

2. Sue and be sued;

3. Make contracts and execute all instruments necessary or convenient for carrying out the business of the Center and the Institute;

4. Acquire, own, hold, dispose of and encumber real or personal property of any nature, including tangible, intangible, commercial or intellectual, or any interest therein;

5. Enter into agreements or other transactions with any federal, state, county or municipal agency, authority or other governmental entity and with any individual, corporation, enterprise, association or any other entity involving research and technology;

6. Acquire real property or an interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the Center has an interest;

7. Sell, transfer and convey any such property to a buyer, and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

8. Invest any funds provided by the state and held in reserve in funds not required for immediate disbursement and invest funds received from gifts, grants, donations and other operations of the Center in such investments as would be lawful for a private corporation having purposes similar to the Center;

9. Borrow money and give guaranties, provided that the indebtedness and other obligations of the Center or Institute shall be payable solely out of the resources of the Center or the Institute, respectively, and shall not constitute a pledge of the full faith and credit of the state or any of its revenues;

10. Appoint officers, consultants, agents and advisors, and prescribe their duties and compensation;

11. Appear on its own behalf or on behalf of the Center or Institute before boards, commissions, departments or other agencies of municipal, county or state government or federal government;

12. Procure insurance against any losses in connection with its properties in such amounts from such insurers as may be necessary or desirable;

13. Consent, subject to the provisions of any contract with note-holders, whenever it considers it necessary or desirable in the fulfillment of the goals and purposes of the Center or Institute, to the modifications, with respect to the rate of interest, time payment or of any installment, of principal and interest or any terms of any contract or agreement of any kind to which the Center or the Institute is a party;

14. Accept any and all donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the goals and purposes of the Center or the Institute, in accordance with the terms and conditions of any such grant;

15. Trade, buy or sell qualified securities;

16. Own, possess and take license in, patents, copyrights and proprietary processes and negotiate and enter into contracts and establish charges for the use of such patents, copyrights and proprietary processes when such patents and licenses for innovation or inventions result from research sponsored by the Center or Institute in a private enterprise or when the Center or Institute finances a product developed by a private enterprise;

17. Establish policies governing royalty payments to the Center and Institute on patents and licenses for innovations or inventions arising in the course of research sponsored by the Center or Institute at institutions of higher education and nonprofit research foundations; such royalty policies should reflect an appropriate sharing of legal risk as well as financial return between the Center or Institute and such institution or foundation; such patents and licenses shall be in keeping with the patent policies of such institutions or foundations;

18. Conduct studies which are related to economic development, involving product or process innovations;

19. Solicit, study and assist in the preparation of business plans and proposals of new or established enterprises of special importance to the Oklahoma economy;

20. Prepare, publish and distribute such technological studies, reports, bulletins and other materials as it considers appropriate, subject only to the maintenance and responsibility for confidentiality of the client proprietary information, and encourage institutions of higher education to develop and disseminate similar materials;

21. Sponsor, or co-sponsor with both private industry and higher education institutions, special institutes, conferences and

demonstrations relating to the stimulation of innovation, science and technologically oriented enterprises;

22. Participate with any state agency or institution of higher education in developing specific goals, programs and performance monitoring systems to assist in the development of basic research, applied research and technology transfer of special importance to the Oklahoma economy;

23. Provide scientific and technological data and information required by the Governor, the Legislature, or its committees, and to state agencies, institutions of higher education and cities, towns, counties and school districts and to private citizens and groups, within the limitations of the resources available to the Center;

24. Provide training and practical experience for Oklahoma researchers in the preparation of applications for peer-reviewed grant competitions;

25. Facilitate public/private partnerships that will support the creation of endowed chairs, scholarships, research grants, and business opportunities;

26. Develop policies and procedures for partnering with and/or between universities offering engineering or technology degrees in Oklahoma to facilitate joint public/private technology research and development projects using resources and facilities of such public higher education institutions or private entities; provided that,

the Board shall utilize, and accord lead status to, Rogers State University for coordinating and delivering higher education distance learning opportunities initiated or developed by the Board;

27. Advertise for, accept, and fund proposals from universities, private industries, towns, counties, municipalities, and individuals to achieve its goals and purposes;

28. Collaborate with the various entities to develop initiatives which foster economic development through technological advancement;

29. Create institutes or centers with world-class research teams that support the state's primary economic development thrusts;

30. Expend monies from the income and investment return and principal from the Oklahoma Institute of Technology Trust Fund, upon authorization of the trustees of the trust fund by the required vote as provided in Section ~~12~~ 5060.30 of this ~~act~~ title; ~~and~~

31. Exercise any other powers necessary for the operation and functioning of the Center within the purposes authorized in this act; and

32. Administer the Economic Development Research Endowment Fund pursuant to Section 2 of this act.

B. The Center and the Institute shall be exempt from all franchise, corporate business and income taxes levied by the state. The manufacture or sale of any products or processes which are the

subject of any agreement made by the Center or the Institute, or any person entering into any agreement with the Center or Institute shall not be exempt from any such taxes or taxes applicable to such manufacture or sale.

C. The Center and Institute shall include in the annual business plan appropriate administrative policies, including but not limited to policies governing the classification, employment, promotion, suspension, disciplinary action or dismissal of Center employees, including employees assigned to the Institute; purchasing; travel; and reimbursement of employees. All actions governed by said administrative policies shall be examined annually in the independent audit required by Section 5060.22 of this title. The Center and Institute shall not be subject to state purchasing laws, except with respect to purchases required for the administrative expenses of the Board, or laws concerning travel or reimbursement of state employees. Professional service contracts executed by the Center or Institute shall not be subject to any requirement of law relating to competitive bidding.

Because many of the powers and duties of the Center and Institute involve working closely with the private sector, certain employee positions of the Center, including employees assigned to the Institute, must be governed, classified and compensated in a manner that compares equally to similar positions in the private

sector. Therefore, in the annual business plan, the Board shall list, describe and justify all such positions and their compensation and shall designate and place them in unclassified status, exempt from the provisions of the Oklahoma Personnel Act. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. Provided, nothing in this section shall be construed to limit the authority of the Legislature to specify the status of positions otherwise by law. Neither shall the Board have the authority to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the Center or the Institute.

D. Upon approval of the Board, the Center shall have the authority to exercise the powers enumerated in subsection A of this section.

SECTION 5. This act shall become effective July 1, 2005.

SECTION 6. 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.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-05 - DO PASS, As Amended and Coauthored.