

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 1284

By: Johnson (Mike),
Crutchfield, Myers and
Adelson of the Senate

6 and

7 Miller and Jones of the
8 House

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to the Oklahoma Department of
12 Agriculture, Food, and Forestry; making an
13 appropriation; stating purpose; exempting
14 appropriation from agency budget and category limits;
15 amending 2 O.S. 2001, Section 2-4, as last amended by
16 Section 1, Chapter 157, O.S.L. 2007 (2 O.S. Supp.
17 2007, Section 2-4), which relates to power of the
18 State Board of Agriculture; expanding powers;
19 providing lapse dates; requiring certain budget
20 procedures; prohibiting certain budget procedures;
21 providing an effective date; and declaring an
22 emergency.

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

24 SECTION 1. There is hereby appropriated to the Oklahoma
Department of Agriculture, Food, and Forestry from any monies not
otherwise appropriated from the General Revenue Fund of the State
Treasury for the fiscal year ending June 30, 2009, the sum of One
Million One Hundred Five Thousand Dollars (\$1,105,000.00) or so much

1 thereof as may be necessary to perform the duties imposed upon the
2 Oklahoma Department of Agriculture, Food, and Forestry by law.

3 SECTION 2. The appropriation made by this act shall not be
4 subject to fiscal year 2009 agency budget and category limits.

5 SECTION 3. AMENDATORY 2 O.S. 2001, Section 2-4, as last
6 amended by Section 1, Chapter 157, O.S.L. 2007 (2 O.S. Supp. 2007,
7 Section 2-4), is amended to read as follows:

8 Section 2-4. A. The State Board of Agriculture shall have the
9 power to:

10 1. Adopt and prescribe the use of a seal, which shall be in the
11 custody of the Secretary of the Board;

12 2. Promulgate rules necessary, expedient, or appropriate to the
13 performance, enforcement, or carrying out of any of the purposes,
14 objectives, or provisions of the Oklahoma Agricultural Code;

15 3. Initiate and prosecute administrative, civil, or criminal
16 actions and proceedings necessary under the Oklahoma Agricultural
17 Code;

18 4. Appoint authorized agents to make inspections or
19 investigations and to perform other services for the Board or any
20 division of the Oklahoma Department of Agriculture, Food, and
21 Forestry;

22 5. Consolidate any of the divisions established by the Oklahoma
23 Agricultural Code, transfer any of the functions or activities to
24 another division, place additional functions or activities in a

1 division, establish new divisions, and create new or additional
2 positions in the Department, when conducive to a more efficient
3 administration and enforcement of laws pertaining to agriculture;

- 4 6. Sell, exchange, or dispose of property;
- 5 7. Have jurisdiction over all matters affecting animal
6 industry, animal health, and animal quarantine;
- 7 8. Issue stop-sale and stop-use orders and quarantines;
- 8 9. Employ, appoint, or contract and fix the duties and
9 compensation of the director of each division of the Department and
10 other personnel, either on a full-time, part-time, or contractual
11 basis, as deemed necessary by the Board;
- 12 10. Fix the qualifications of the personnel in the Department;
- 13 11. Accept and use grants of money and other property from any
14 source;
- 15 12. Advise, consult, cooperate, and enter into agreements or
16 contracts with persons as defined in the Oklahoma Agricultural Code;
- 17 13. Coordinate with the federal government and other states on
18 matters pertaining to agriculture;
- 19 14. Revoke, suspend, or deny for up to one (1) year, any
20 license, permit, or charter issued by the Board if the Board finds
21 any violations of the Oklahoma Agricultural Code or any rule of the
22 Board;
- 23 15. Adopt a master plan and promulgate rules for the protection
24 of state-owned and private forestry, grazing, and other lands from

1 damage by fire and for suppressing fires on lands. In carrying out
2 the master plan the Board is authorized to enter into contractual
3 agreements with the federal government, local political subdivisions
4 of the state, individuals, private organizations, companies, and
5 corporations for protection and for the suppression of fires and to
6 expend funds as available for these services. To effectuate the
7 purposes of the Oklahoma Agricultural Code, the Board is authorized
8 to enter into contractual agreements with private landowners for the
9 protection and suppression of fires, provided that the private
10 landowners reimburse the Board for actual expenses incurred in the
11 protection and suppression of fires on privately owned lands;

12 16. Have jurisdiction over all matters affecting agriculture as
13 contained and set out in the Oklahoma Agricultural Code, which have
14 not been expressly delegated to another state or federal agency and
15 be responsible for fully implementing and enforcing the laws and
16 rules within its jurisdictional areas of environmental
17 responsibility.

18 a. The Department of Environmental Quality shall have
19 environmental jurisdiction over:

20 (1) commercial manufacturers of fertilizers, grain
21 and feed products, and chemicals, and over
22 manufacturing of food and kindred products,
23 tobacco, paper, lumber, wood, textile mill, and
24 other agricultural products,

1 (2) slaughterhouses, but not including feedlots at
2 these facilities, and

3 (3) aquaculture and fish hatcheries, including, but
4 not limited to, discharges of pollutants and
5 storm water to waters of the state, surface
6 impoundments and land application of wastes and
7 sludge, and other pollution originating at these
8 facilities.

9 b. Facilities storing grain, feed, seed, fertilizer, and
10 agricultural chemicals that are required by federal
11 National Pollutant Discharge Elimination System
12 (NPDES) regulations to obtain a permit for storm water
13 discharges shall only be subject to the jurisdiction
14 of the Department of Environmental Quality with
15 respect to storm water discharges;

16 17. Have jurisdiction over all matters affecting the
17 importation, health, and quarantining of exotic livestock;

18 18. Prescribe forms of application, certification, licenses,
19 charters, and other forms and blanks as may be necessary to carry
20 out the provisions of the Oklahoma Agricultural Code;

21 19. Stagger throughout the year the renewal dates for any
22 licenses or permits issued by the Department pursuant to the
23 provisions of the Oklahoma Agricultural Code by notifying licensees
24 in writing of the expiration and renewal date being assigned to the

1 licensee and permittee and by making an appropriate adjustment in
2 the fee charged for the license or permit;

3 20. Establish and collect fees for licenses, permits, charters,
4 and services provided. The fees shall be promulgated in accordance
5 with the Administrative Procedures Act and shall be fair and
6 equitable to all parties concerned;

7 21. Establish planting and harvesting seasons for the purpose
8 of meeting the maximum driving and on-duty time exemptions set forth
9 in the National Highway System Designation Act of 1995. The Board
10 shall notify the United States Secretary of Transportation of the
11 seasons;

12 22. Fix and adopt official standards for grading and
13 classifying any agricultural commodity, meat, or meat product
14 prepared, produced, or distributed in Oklahoma;

15 23. Promulgate rules, make investigations, and conduct hearings
16 for the purpose of making inspection compulsory on any agricultural
17 commodity and designate the shipping points where compulsory
18 inspection applies;

19 24. Inspect agricultural commodities, at any time, upon request
20 of any financially interested party or when necessary and to issue
21 certificates showing the quality and condition of the commodities at
22 the time of the inspection;

23 25. Grade meat or meat products upon the request of any packing
24 plant in Oklahoma. The packing plant shall be required to pay the

1 cost of services, including the compensation and expenses of
2 personnel employed to perform the actual grading;

3 26. Apply to the district court for a temporary or permanent
4 injunction or any other remedy restraining any person from violating
5 the Oklahoma Agricultural Code;

6 27. Extend and implement the powers and provisions granted by
7 the Oklahoma Agricultural Code to all programs administered by the
8 Department regardless of whether the statutes creating the program
9 are codified in this title;

10 28. Increase its efforts to ensure the safety and quality of
11 food and food products for wholesalers and retail sales in this
12 state and shall include, but not be limited to, inspections of
13 retailers and wholesalers to ensure compliance with all federal and
14 state certification standards;

15 29. Exercise all incidental powers which are necessary and
16 proper to implement and administer the purposes of the Oklahoma
17 Agricultural Code;

18 30. Accept upon behalf of the Department any gift or donation
19 of property, including but not limited to monetary gifts; ~~and~~

20 31. Promulgate rules regarding prescribed burning and smoke
21 management; and

22 32. Enter into written leases or lease-purchase agreements to
23 acquire equipment, furnishings, supplies and other items necessary
24

1 for the operation of the Oklahoma Department of Agriculture, Food,
2 and Forestry Agriculture Laboratory.

3 B. 1. If upon inspection or investigation, or whenever the
4 Oklahoma Department of Agriculture, Food, and Forestry determines
5 that there are reasonable grounds to believe that any person is in
6 violation of any part of the Oklahoma Environmental Quality Code
7 which is the responsibility and jurisdiction of the Oklahoma
8 Department of Agriculture, Food, and Forestry, any rule promulgated
9 by the State Board of Agriculture, or of any order, permit,
10 certificate, registration, charter, or license issued by the Board,
11 the Department may give written notice to the alleged violator of
12 the specific violation and of the alleged violator's duty to correct
13 the violation immediately or within a set time period or both and
14 that the failure to do so shall result in administrative fines or
15 penalties.

16 2. Whenever the Department finds that an emergency exists
17 requiring immediate action to protect the public health, welfare, or
18 the environment, the President of the State Board of Agriculture may
19 without notice or hearing issue an order, effective upon issuance,
20 reciting the existence of an emergency and requiring that action be
21 taken as specified in the order to meet the emergency. Any person
22 to whom an order is directed shall comply immediately but may
23 request an administrative enforcement hearing within fifteen (15)
24 days after the order is served. The hearing shall be held by the

1 Department within ten (10) days after receipt of the request. On
2 the basis of the hearing record, the President of the Board shall
3 sustain or modify the original order.

4 SECTION 4. Appropriations made by this act, not including
5 appropriations made for capital outlay purposes, may be budgeted for
6 the fiscal year ending June 30, 2009 (hereafter FY-09), or may be
7 budgeted for the fiscal year ending June 30, 2010 (hereafter FY-10).
8 Funds budgeted for FY-09 may be encumbered only through June 30,
9 2009, and must be expended by November 15, 2009. Any funds
10 remaining after November 15, 2009, and not budgeted for FY-10, shall
11 lapse to the credit of the proper fund for the then current fiscal
12 year. Funds budgeted for FY-10 may be encumbered only through June
13 30, 2010. Any funds remaining after November 15, 2010, shall lapse
14 to the credit of the proper fund for the then current fiscal year.
15 These appropriations may not be budgeted in both fiscal years
16 simultaneously. Funds budgeted in FY-09, and not required to pay
17 obligations for that fiscal year, may be budgeted for FY-10, after
18 the agency to which the funds have been appropriated has prepared
19 and submitted a budget work program revision removing these funds
20 from the FY-09 budget work program and after such revision has been
21 approved by the Office of State Finance.

22 SECTION 5. This act shall become effective July 1, 2008.

23 SECTION 6. It being immediately necessary for the preservation
24 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

4 51-2-3990 AD 5/23/2008 7:03:07 PM

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24