

ENROLLED SENATE
BILL NO. 1284

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

and

Miller and Jones of the
House

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

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

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

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

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

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

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

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

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

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

5. Consolidate any of the divisions established by the Oklahoma Agricultural Code, transfer any of the functions or activities to another division, place additional functions or activities in a division, establish new divisions, and create new or additional positions in the Department, when conducive to a more efficient administration and enforcement of laws pertaining to agriculture;

6. Sell, exchange, or dispose of property;

7. Have jurisdiction over all matters affecting animal industry, animal health, and animal quarantine;

8. Issue stop-sale and stop-use orders and quarantines;

9. Employ, appoint, or contract and fix the duties and compensation of the director of each division of the Department and

other personnel, either on a full-time, part-time, or contractual basis, as deemed necessary by the Board;

10. Fix the qualifications of the personnel in the Department;

11. Accept and use grants of money and other property from any source;

12. Advise, consult, cooperate, and enter into agreements or contracts with persons as defined in the Oklahoma Agricultural Code;

13. Coordinate with the federal government and other states on matters pertaining to agriculture;

14. Revoke, suspend, or deny for up to one (1) year, any license, permit, or charter issued by the Board if the Board finds any violations of the Oklahoma Agricultural Code or any rule of the Board;

15. Adopt a master plan and promulgate rules for the protection of state-owned and private forestry, grazing, and other lands from damage by fire and for suppressing fires on lands. In carrying out the master plan the Board is authorized to enter into contractual agreements with the federal government, local political subdivisions of the state, individuals, private organizations, companies, and corporations for protection and for the suppression of fires and to expend funds as available for these services. To effectuate the purposes of the Oklahoma Agricultural Code, the Board is authorized to enter into contractual agreements with private landowners for the protection and suppression of fires, provided that the private landowners reimburse the Board for actual expenses incurred in the protection and suppression of fires on privately owned lands;

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

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

- (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill, and other agricultural products,
- (2) slaughterhouses, but not including feedlots at these facilities, and
- (3) aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

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

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

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

19. Stagger throughout the year the renewal dates for any licenses or permits issued by the Department pursuant to the provisions of the Oklahoma Agricultural Code by notifying licensees in writing of the expiration and renewal date being assigned to the licensee and permittee and by making an appropriate adjustment in the fee charged for the license or permit;

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

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

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

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

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

25. Grade meat or meat products upon the request of any packing plant in Oklahoma. The packing plant shall be required to pay the cost of services, including the compensation and expenses of personnel employed to perform the actual grading;

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

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

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

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

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

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

32. Enter into written leases or lease-purchase agreements to acquire equipment, furnishings, supplies and other items necessary for the operation of the Oklahoma Department of Agriculture, Food, and Forestry Agriculture Laboratory.

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

2. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health, welfare, or the environment, the President of the State Board of Agriculture may without notice or hearing issue an order, effective upon issuance, reciting the existence of an emergency and requiring that action be taken as specified in the order to meet the emergency. Any person to whom an order is directed shall comply immediately but may request an administrative enforcement hearing within fifteen (15) days after the order is served. The hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the President of the Board shall sustain or modify the original order.

SECTION 4. Appropriations made by this act, not including appropriations made for capital outlay purposes, may be budgeted for the fiscal year ending June 30, 2009 (hereafter FY-09), or may be budgeted for the fiscal year ending June 30, 2010 (hereafter FY-10). Funds budgeted for FY-09 may be encumbered only through June 30,

2009, and must be expended by November 15, 2009. Any funds remaining after November 15, 2009, and not budgeted for FY-10, shall lapse to the credit of the proper fund for the then current fiscal year. Funds budgeted for FY-10 may be encumbered only through June 30, 2010. Any funds remaining after November 15, 2010, shall lapse to the credit of the proper fund for the then current fiscal year. These appropriations may not be budgeted in both fiscal years simultaneously. Funds budgeted in FY-09, and not required to pay obligations for that fiscal year, may be budgeted for FY-10, after the agency to which the funds have been appropriated has prepared and submitted a budget work program revision removing these funds from the FY-09 budget work program and after such revision has been approved by the Office of State Finance.

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

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.

Passed the Senate the 23rd day of May, 2008.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of May, 2008.

Presiding Officer of the House
of Representatives