

AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB609
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Greg Piatt

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 609

6 By: Sweeden of the Senate

7 and

8 Adkins of the House

9 FLOOR SUBSTITUTE

10 An Act relating to energy; amending 17 O.S. 2001,
11 Section 251, which relates to fuel adjustment
12 clauses; modifying certain method of inventory
13 accounting for fuel in storage; creating the Oklahoma
14 Bioenergy Center Act; creating the Oklahoma Bioenergy
15 Center within the Oklahoma Department of Commerce;
16 stating duties and responsibilities of the Center;
17 directing the Department to assist the Center;
18 providing for the Oklahoma Bioenergy Center Board;
19 listing contributing institutions; providing for
20 additional contributing institutions; listing
21 membership of the Board; providing for additional
22 members; providing for appointment; requiring the
23 Board to adopt rules for operation of the Center;
24 specifying duties and responsibilities of the Board;
requiring an annual report; exempting certain
activities of the Center and Board from The Oklahoma
Central Purchasing Act; limiting liability of the
Board; directing the Board to appoint an executive
director; specifying criteria for selection of
executive director; stating powers and duties of the
executive director; stating legislative intent for
funding; providing for state appropriations for the
Center; providing for the acceptance and expenditure
of funding for the Center; allowing for assistance
from state agencies; creating the Oklahoma Bioenergy
Center Revolving Fund; specifying source of funding;
providing for expenditure from Fund; providing for

1 codification; providing an effective date; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 17 O.S. 2001, Section 251, is
6 amended to read as follows:

7 Section 251. A. No fuel adjustment clause of any kind shall
8 hereafter be authorized by the Corporation Commission if such clause
9 operates automatically to permit charges, assessments or amendments
10 to existing rate schedules to be made which have not been first
11 approved as provided by Sections 251 through 255 of this title,
12 except as otherwise provided for purchased power adjustments by
13 electric distribution cooperatives in Sections 258 through 262 of
14 this title.

15 B. If the Commission finds that the changes in the price of
16 fuels required for the generation of electricity by any electric
17 public utility, that the changes in the price of purchased
18 electricity required for distribution by any public utility or
19 changes in the price of purchased gas required for distribution by
20 any gas utility, portends a likely and substantial threat to the
21 ability of the utility to earn a reasonable rate of return, or are
22 likely to cause the utility to have an excessive rate of return, or
23 are likely to substantially impair the ability of the utility to
24 acquire adequate supplies of fuel or gas, the Commission may, after

1 investigation and public hearing, approve suitable fuel adjustment
2 clauses to be superimposed upon the existing rate schedules of the
3 public utility. The Commission shall design the fuel adjustment
4 clause to allow the electric or gas public utility to increase or
5 decrease charges to the consumer according to changes in the cost of
6 fuel, purchased power or purchased gas as compared to the price of
7 such fuels or power as reflected in the base rates.

8 C. In the Commission's design of fuel adjustment clauses, the
9 following rules shall apply:

10 1. For the purpose of determining fuel or gas costs, the price
11 paid for the fuel or gas shall be computed at the actual cost of
12 fuel or gas purchased from nonaffiliated persons, firms and
13 corporations; and the actual cost of the production of fuel owned by
14 the public utility or received from affiliated persons, firms and
15 corporations, and in the case of gas, the fair field price for gas
16 owned by the public utility or received from affiliated persons,
17 firms or corporations;

18 2. The cost of fuel or gas shall be the price paid at the point
19 of delivery into the utility system. In the event the
20 transportation is performed by an affiliated person, firm or
21 corporation as defined in this act which is not subject to the
22 regulatory jurisdiction of the Commission, a regulatory agency of
23 another state having jurisdiction, or the Federal Energy Regulatory
24 Commission or successor agency, the charges made for transportation

1 shall be, if allowed at all, only such as the Commission finds fair,
2 just and reasonable, for purposes of this section. Transportation
3 charges approved by this Commission, a regulatory agency of another
4 state having jurisdiction, or by the Federal Energy Regulatory
5 Commission, or successor agency shall be included for purposes of
6 this section, if allowed by this Commission. The proposed
7 adjustment charge shall not include the cost of transportation
8 beyond its point of delivery into that portion of the utility system
9 regulated by the Corporation Commission unless there is presented to
10 the Commission and it is persuaded by reliable evidence which
11 clearly points to the conclusion that failure to do so will
12 substantially threaten the ability of the utility to earn a
13 reasonable rate of return;

14 3. The amount of electric energy produced by hydroelectric
15 generating plants and purchased by the public utility proposing the
16 adjustment charge shall be deducted from the amount of electric
17 energy to which any fuel cost applies;

18 4. The actual efficiency or heat rate of electric public
19 utilities shall be utilized and line losses shall be considered only
20 if reliable evidence clearly points to the conclusion that failure
21 to do so will substantially threaten the ability of the utility to
22 earn a reasonable rate of return;

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1 5. Fuel or gas removed from storage or stockpiles shall be
2 taken into consideration on the basis of the ~~last in first out~~
3 weighted average cost method of inventory accounting; and

4 6. No estimated fuel adjustment shall be allowed.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5009.11 of Title 74, unless
7 there is created a duplication in numbering, reads as follows:

8 Sections 3 through 7 of this act shall be known and may be cited
9 as the "Oklahoma Bioenergy Center Act".

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 5009.12 of Title 74, unless
12 there is created a duplication in numbering, reads as follows:

13 A. There is hereby created within the Oklahoma Department of
14 Commerce, the Oklahoma Bioenergy Center to serve as a strategic
15 partnership that will focus the collective resources of contributing
16 institutions in the field of bioenergy research to:

17 1. Strategically coordinate resources and research programs in
18 Oklahoma to address and undertake complex research facing the
19 biofuels and bioenergy industry in Oklahoma and in the nation;

20 2. Assist Oklahoma in being a recognized leader in the fields
21 of research and production of biofuels, bioenergy and related
22 biobased products;

23 3. Advance the research capacity in Oklahoma in the fields of
24 biofuels and bioenergy development and production along the biofuel,

1 bioenergy and biobased product production/value chain, from field to
2 conversion to utilization;

3 4. Serve as a focal point and resource for the emerging
4 agriculture-based biofuels and bioenergy industry in Oklahoma; and

5 5. Conduct research through its contributing institutions and
6 partnerships to deliver practical outcomes to:

7 a. enable the competitive and sustainable production of
8 liquid biofuels, including ethanol, in Oklahoma, and

9 b. contribute to the national research effort to enable
10 the United States to achieve prescribed levels of
11 petroleum independence.

12 B. The Department of Commerce shall assist the Center in
13 fulfilling the responsibilities of this act, as requested by the
14 Center.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5009.13 of Title 74, unless
17 there is created a duplication in numbering, reads as follows:

18 A. The Oklahoma Bioenergy Center shall be administered and
19 governed by the Oklahoma Bioenergy Center Board, made up of
20 representatives of the contributing institutions of the Center which
21 initially shall be the University of Oklahoma, Oklahoma State
22 University and the Samuel Roberts Noble Foundation, Inc. Additional
23 contributing institutions may be added at the discretion of the
24 Board, as such institutions contribute to the purpose, objectives

1 and research coordinated by the Center. Additional contributing
2 institutions may include institutions of higher education, nonprofit
3 research institutions and private enterprise.

4 B. The Board shall initially consist of seven (7) members as
5 follows:

6 1. One member, who shall serve as the Chair of the Board, shall
7 be appointed by the Governor;

8 2. One member shall be the Vice President of Research from the
9 University of Oklahoma;

10 3. One member shall be appointed by the President of the
11 University of Oklahoma;

12 4. One member shall be the Vice President of Research from
13 Oklahoma State University;

14 5. One member shall be appointed by the President of Oklahoma
15 State University; and

16 6. Two members shall be appointed by the President of the
17 Samuel Roberts Noble Foundation.

18 C. At the discretion of the Board, additional members may be
19 added to the Board, who shall represent additional contributing
20 institutions of the Center which have been added as provided for in
21 subsection A of this section.

22 D. Board members shall be appointed within thirty (30) days
23 following the effective date of this act.

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1 E. Board members shall serve at the pleasure of their
2 respective appointing authorities.

3 F. The Board shall be responsible for establishing procedures
4 for the Center and operations of the Board. The procedures and
5 operations shall be established as rules promulgated by the Board
6 pursuant to the requirements of the Administrative Procedures Act.
7 The rules may provide for protection from public disclosure of trade
8 secrets and proprietary information of any kind, including, but not
9 limited to, data, processes and technology, as the Board determines
10 necessary.

11 G. The Board shall undertake activities and commission
12 programs, through the contributing institutions, to achieve the
13 purpose and satisfy the objectives of the Center as set forth in
14 this act. The Board shall have authority to distribute funding for
15 such activities and programs. The Board may commission and hire
16 technical advisors, including legal counsel, to advise the Board
17 regarding the technical aspects of the research conducted in
18 furtherance of the Center. The Board may employ staff as it deems
19 necessary.

20 H. The Board shall prepare an annual, written report to
21 summarize the annual progress of the Center, including summaries of
22 its programs and their progress and outcomes. The report shall be
23 made available to the public and shall be distributed to the
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1 Governor, the President Pro Tempore of the Senate, and the Speaker
2 of the House of Representatives.

3 I. The provisions of The Oklahoma Central Purchasing Act shall
4 not apply to any project, activity or contract of the Center or the
5 Board.

6 J. No board member or any person acting on behalf of the Board
7 or Center executing any contracts, commitments or agreements issued
8 pursuant to the Oklahoma Bioenergy Center Act shall be personally
9 liable for the contracts, commitments, or agreements or be subject
10 to any personal liability or accountability by reason thereof. No
11 director or any person acting on behalf of the Board or Center shall
12 be personally liable for damage or injury resulting from the
13 performance of duties hereunder.

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 5009.14 of Title 74, unless
16 there is created a duplication in numbering, reads as follows:

17 A. The Oklahoma Bioenergy Center Board shall appoint an
18 executive director of the Center. The Board shall establish
19 criteria for selecting the executive director, taking into
20 consideration national standards. The search for the executive
21 director shall be conducted pursuant to the criteria established by
22 the Board.

23 B. The executive director of the Center shall serve at the
24 pleasure of the Board.

1 C. The executive director of the Center shall serve as the
2 chief executive officer of the Center. The executive director shall
3 direct and supervise the administrative affairs and the general
4 management of the Center. The executive director is authorized to
5 employ staff and legal counsel as necessary and expend funds as
6 necessary for administrative purposes as approved by the Board.

7 SECTION 6. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 5009.15 of Title 74, unless
9 there is created a duplication in numbering, reads as follows:

10 A. It is hereby stated to be the intent of the Legislature to
11 provide funding for the Oklahoma Bioenergy Center.

12 B. State appropriations for the Center shall be made as
13 otherwise provided by law and shall be directed to the Oklahoma
14 Department of Commerce, which shall not exercise any discretion with
15 respect to the expenditure of such funds but shall directly allocate
16 the appropriations to the Center.

17 C. The Center is authorized to accept donations, grants or
18 endowments from any person, corporation or entity to implement the
19 provisions of the Oklahoma Bioenergy Center Act.

20 D. The Oklahoma Bioenergy Center Board shall be solely
21 responsible for overseeing and effecting the distribution of funds
22 in furtherance of the purpose of the Center. No funding designated
23 for the Center shall be used for:

24 1. The construction or purchase of any facility; or

1 2. Faculty or research endowments.

2 E. The Center may receive assistance from any other state
3 agency or public entity to implement the provisions of the act,
4 including, but not limited to, administrative assistance, staffing
5 or legal counsel and provision of office space or equipment as
6 necessary. Assistance agreements may be made by memorandums of
7 understanding or as otherwise provided by law.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 5009.16 of Title 74, unless
10 there is created a duplication in numbering, reads as follows:

11 There is hereby created in the State Treasury a revolving fund
12 for the Oklahoma Bioenergy Center to be designated the "Oklahoma
13 Bioenergy Center Revolving Fund". The fund shall be a continuing
14 fund, not subject to fiscal year limitations, and shall consist of
15 all monies received by the Oklahoma Department of Commerce or any
16 other entity authorized to accept or expend funds on behalf of the
17 Oklahoma Bioenergy Center from any authorized source. All monies
18 accruing to the credit of the fund are hereby appropriated and may
19 be budgeted and expended by the Oklahoma Bioenergy Center for the
20 purpose of implementing the provisions of the Oklahoma Bioenergy
21 Center Act. Expenditures from the fund shall be made upon warrants
22 issued by the State Treasurer against claims filed as prescribed by
23 law with the Director of State Finance for approval and payment.

1 SECTION 8. Section 1 of this act shall become effective January
2 1, 2008.

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

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8 51-1-7946 KB 04/19/07

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