

THE HOUSE OF REPRESENTATIVES
Wednesday, March 24, 2010

Committee Substitute for
ENGROSSED
Senate Bill No. 1759

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1759 - By: SYKES, JOLLEY, ALDRIDGE AND IVESTER of the Senate and MURPHEY of the House.

An Act relating to public finance; amending Section 1, Chapter 327, O.S.L. 2007 (62 O.S. Supp. 2009, Section 46), which relates to the Taxpayer Transparency Act; defining term; requiring certain website to contain information relating to stimulus fund expenditures; specifying time period when information to be available; allowing person denied access to certain information to bring civil suit; providing for recovery of attorney fees under certain circumstances; and declaring an emergency.

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

1 SECTION 1. AMENDATORY Section 1, Chapter 327, O.S.L. 2007 (62 O.S.
2 Supp. 2009, Section 46), is amended to read as follows:

3 Section 46. A. This act shall be known and may be cited as the "Taxpayer
4 Transparency Act".

5 B. As used in the Taxpayer Transparency Act:

6 1. "Single website" means a website that allows the public to access information
7 identified in subsection C of this section without any fee or charge to the public for such
8 access;

1 2. "Expenditure of state funds" means the disbursement of state funds, whether
2 appropriated or nonappropriated, excluding:

- 3 a. the transfer of funds between two state agencies,
- 4 b. payments of state or federal assistance to an individual,
- 5 c. child support payments, and
- 6 d. refunds issued by the Oklahoma Tax Commission resulting from the
7 overpayment of tax;

8 3. "Incentive payments" means payments made under the Oklahoma Quality Jobs
9 Program Act, Saving Quality Jobs Act, Oklahoma Quality Jobs Incentive Leverage Act,
10 Small Employer Quality Jobs Incentive Act, Oklahoma Specialized Quality Investment
11 Act and Oklahoma Quality Investment Act; ~~and~~

12 4. "Tax credit" means a credit pursuant to the Oklahoma Income Tax Act against
13 tax liability which is taken by a taxpayer, excluding credits authorized under paragraphs
14 1 and 2 of subsection B of Section 2357 and Sections 2357.29 and 2357.43 of Title 68 of
15 the Oklahoma Statutes; and

16 5. "Stimulus funds expenditure" means the disbursement by state agencies of
17 federal funds received pursuant to the federal American Recovery and Reinvestment Act
18 of 2009.

19 C. No later than January 1, 2008, the Office of State Finance shall develop and
20 operate a single website accessible by the public. The website shall include aggregate
21 information on state revenue, expenditures and incentive payments and information on
22 state tax preferences as contained in the tax expenditure report published by the

1 Oklahoma Tax Commission pursuant to subsection E of Section 205 of Title 68 of the
2 Oklahoma Statutes. No later than January 1, 2009, the website shall include search
3 capabilities.

4 D. As soon as practicable after January 1, 2008, such website shall also include, but
5 not be limited to:

6 1. For the expenditure of state funds or incentive payments:

- 7 a. the name and principal location of the entity and/or recipients of the
- 8 funds, excluding release of information relating to an individual's place
- 9 of residence, release of information prohibited by subsection D of
- 10 Section 24A.7 of Title 51 of the Oklahoma Statutes or by federal law
- 11 relating to privacy rights,
- 12 b. the amount of state funds expended,
- 13 c. the type of transaction,
- 14 d. the funding or expending agency, and
- 15 e. a descriptive purpose of the funding action or expenditure; ~~and~~

16 2. For stimulus fund expenditures:

- 17 a. the name and principal location of the entity and/or recipients of the
- 18 funds, excluding release of information relating to an individual's place
- 19 of residence, release of information prohibited by subsection D of
- 20 Section 24A.7 of Title 51 of the Oklahoma Statutes or by federal law
- 21 relating to privacy rights,
- 22 b. the amount of stimulus funds expended,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 c. the type of transaction,
- 2 d. the funding or expending agency, and
- 3 e. a descriptive purpose of the funding action or expenditure; and

4 3. For each tax credit, information, including but not limited to:

- 5 a. the name of each taxpayer to which a credit has been granted,
- 6 b. the amount of such credit, and
- 7 c. the specific provision under which a credit has been granted.

8 E. The single website provided for in subsection C of this section shall include data
9 on state revenue, expenditures and incentive payments for the fiscal year 2007 and each
10 fiscal year thereafter ~~and~~, on state tax credits for tax year 2007 and each tax year
11 thereafter, and on stimulus fund expenditures for the fiscal year 2009 and each fiscal
12 year thereafter. Such data shall be available on the single website no later than one
13 hundred twenty (120) days after the last day of the preceding fiscal year; provided, data
14 on stimulus fund expenditures for the fiscal year 2009 shall be available on the single
15 website within one hundred twenty (120) days after the effective date of this act.

16 F. The Oklahoma Tax Commission, the Office of the State Treasurer, all
17 institutions of The Oklahoma State System of Higher Education and any other state
18 agency shall provide to the Office of State Finance such information as is necessary to
19 accomplish the purposes of ~~this act~~ the Taxpayer Transparency Act.

20 G. So that the Tax Commission may fulfill its obligations as required by this
21 section, all recipients of tax credits, as that term is defined herein, shall file their reports
22 or returns claiming the tax credits in an electronic format, as may be required by the Tax

1 Commission. The Tax Commission may disallow any claim of a person for a tax credit
2 due to its failure to file a report or return as required under the authority of this
3 paragraph.

4 H. Nothing in ~~this act~~ the Taxpayer Transparency Act shall require the disclosure
5 of information which is required to be kept confidential by state or federal law.

6 I. The disclosure of information required by this section shall create no liability
7 whatsoever, civil or criminal, to the State of Oklahoma or any member of the Office of
8 State Finance or any employee thereof for disclosure of the information or for any error
9 or omission in the disclosure.

10 J. Any person denied access to information required to be included on the website
11 pursuant to the provisions of this section may bring a civil suit for declarative and/or
12 injunctive relief and, if successful, shall be entitled to reasonable attorney fees. If the
13 Office of State Finance or any other state agency successfully defends such a civil suit
14 and the court finds that the suit was clearly frivolous, the Office of State Finance or other
15 state agency shall be entitled to reasonable attorney fees.

16 SECTION 2. It being immediately necessary for the preservation of the public
17 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
18 this act shall take effect and be in full force from and after its passage and approval.

19 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION,
20 dated 03-23-10 - DO PASS, As Amended.