

THE HOUSE OF REPRESENTATIVES
Monday, April 5, 2010

Committee Substitute for
ENGROSSED
Senate Bill No. 1955

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1955 - By:
MARLATT of the Senate and JORDAN of the House.

An Act relating to public finance; amending 62 O.S. 2001, Section 88.5, which relates to the Small Business Linked Deposit Act; increasing maximum amount on certain loans; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 62 O.S. 2001, Section 88.5, is amended to read as
2 follows:

3 Section 88.5. A. The State Treasurer and the Department of Commerce are hereby
4 authorized to disseminate information and to provide small business linked deposit loan
5 packages to the lending institutions eligible for participation under this act.

6 B. The small business linked deposit loan package shall be completed by the
7 borrower before being forwarded to the lending institution for consideration. Any
8 technical assistance in completing such loan package shall be provided by the State
9 Treasurer.

10 C. An eligible lending institution that desires to receive a small business linked
11 deposit shall accept and review applications for loans from eligible participants. The

1 lending institution shall apply all usual lending standards to determine the
2 creditworthiness of each eligible participant. Loans under this act shall conform to the
3 following conditions:

4 1. Maximum loan amounts under the Oklahoma Small Business Linked Deposit
5 Act shall:

- 6 a. not exceed ~~One Million Dollars (\$1,000,000.00)~~ One Million Two
7 Hundred Thousand Dollars (\$1,200,000.00) for an eligible small
8 business,
- 9 b. not exceed Six Million Dollars (\$6,000,000.00) for an eligible industrial
10 park or any public trust authorized in accordance with Section 176 of
11 Title 60 of the Oklahoma Statutes engaged in industrial development
12 as determined by the Oklahoma Linked Deposit Review Board. Such
13 public trusts are limited to fifteen percent (15%) of the total available
14 funds and a nonrenewable term not to exceed six (6) months unless
15 their purpose is to make package passthrough loans to other private
16 recipients for industrial development purposes. Loans made by an
17 eligible trust cannot exceed the interest rate established by this act.
18 Any recipient of a loan through an eligible trust must meet the criteria
19 of this act to receive a small business linked deposit loan;

20 2. An eligible participant shall certify on the loan application that the reduced rate
21 loan will be used exclusively to create new jobs or preserve existing jobs and employment
22 opportunities in accordance with the purpose of this section;

1 3. Only one linked deposit loan shall be made and be outstanding at any time to
2 any eligible participant; provided that the linked deposit loan may be refinanced;

3 4. No linked deposit loan shall be approved for any otherwise eligible participant
4 when fifty percent (50%) or more of the interest in or control of such otherwise eligible
5 participant is owned directly or indirectly by a person who owns directly or indirectly
6 fifty percent (50%) or more of or controls another participating eligible participant;

7 5. No loan shall be made to any officer or director of the lending institution making
8 the loan or to any entity in which any such officer or director maintains a controlling
9 interest;

10 6. No loan shall be made to any employee of the State Treasurer's office or
11 members of the Board or to any entity in which any such officer or director maintains a
12 controlling interest;

13 7. The criteria for the amount of loans used for refinance shall be established by the
14 Oklahoma Linked Deposit Review Board to reflect legislative intent to tighten previous
15 criteria on refinancing;

16 8. The criteria for the amount of loans per job ratio shall be established by the
17 Oklahoma Linked Deposit Review Board to reflect legislative intent to maximize the
18 program in terms of the jobs created or saved;

19 9. Whoever knowingly makes a false statement concerning a linked deposit loan
20 application shall be prohibited from entering into the linked deposit loan program; and

21 10. Linked deposits may be made for any maturity considered appropriate by the
22 State Treasurer not to exceed two (2) years and may be renewed for up to an additional

1 three renewals not to exceed two (2) years each at the discretion of the State Treasurer
2 with the approval of the lending institution. No renewals will be allowed unless the
3 amount of principal has been reduced by a minimum of five percent (5%) and all interest
4 paid to date from the time of the prior loan or renewal. However, at renewal the
5 Oklahoma Linked Deposit Review Board may approve an increase in the amount of
6 principal, if the business is expanding and additional jobs will be created. An approval of
7 such an increase in principal will not extend the maximum years of participation in the
8 program. In addition, loans made to eligible participants where the loan is to be used
9 within an enterprise zone may be made for the maturity date of three (3) years with two
10 additional renewals. The first renewal may be for up to three (3) years and the last
11 renewal may be for up to two (2) years. Loans made to be used within Priority
12 Enterprise Zones may be made with a maturity date of five (5) years and have another
13 three (3) years of renewal. Interest shall be paid at the times determined by the State
14 Treasurer. The State Treasurer may place a small business linked deposit with an
15 eligible lending institution or decline to do so based on the cash flow needs of the state,
16 the security of state funds, investment needs of the state and the ratio of state funds
17 deposited to jobs which would be sustained or created.

18 D. In considering which eligible participants to include in the small business linked
19 deposit loan package for reduced rate loans, the eligible lending institution shall give
20 priority to the economic needs of the area in which the business is located and other
21 factors it considers appropriate to determine the relative financial need of the business
22 including those criteria set forth in the Community Reinvestment Act of the United

1 States. Location in an enterprise zone shall be evidence of the economic needs of the
2 area.

3 E. The eligible lending institution shall forward to the State Treasurer a small
4 business linked deposit loan package in the form and manner prescribed and approved
5 by the State Treasurer. The package shall include information regarding the amount of
6 the loan requested by each eligible participant, the number of jobs to be created or
7 sustained, an estimate of the number of zone residents to be employed in such jobs where
8 the loan is to be used in an enterprise zone and such other information regarding each
9 business the State Treasurer and the Board requires. The institution shall certify that
10 each applicant is an eligible participant, and shall, for each business, certify the present
11 borrowing rate applicable to each specific eligible small business.

12 F. Upon receipt of a completed small business linked deposit loan package, the
13 State Treasurer shall forward the loan package to the Board, Oklahoma Tax Commission
14 and Oklahoma Employment Security Commission. The Board shall review the small
15 business linked deposit loan package to determine if said package is qualified under this
16 act. Within ten (10) days of receipt of the loan package, the Oklahoma Tax Commission
17 and the Oklahoma Employment Security Commission shall determine and certify with
18 the Board whether or not the applicant is in good standing. The Board shall make a
19 recommendation concerning the package at the next regularly scheduled Board meeting
20 or at a special Board meeting, after receipt of the responses from the Oklahoma Tax
21 Commission and the Oklahoma Employment Security Commission. No applicant will be
22 approved without certification of good standing with the Oklahoma Tax Commission and

1 Oklahoma Employment Security Commission. The Board shall return the package to the
2 State Treasurer with a written recommendation of approval or rejection. If the Board
3 recommends rejection, the written recommendation shall include reasons for said
4 rejection. The Board shall forward a copy of its rejection notice to the lending institution
5 and the borrower. The State Treasurer shall keep a chronological list of applications
6 forwarded by the Board for approval or rejection.

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

10 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
11 FINANCIAL SERVICES, dated 04-01-10 - DO PASS, As Amended.