

ESB 907

THE HOUSE OF REPRESENTATIVES
Wednesday, April 8, 2009

ENGROSSED
Senate Bill No. 907
As Amended

ENGROSSED SENATE BILL NO. 907 - By: COFFEE of the Senate and BENGÉ of the House.

(public finance - Economic Development Generating Excellence Trust Fund -
effective date)

1 SECTION 1. AMENDATORY Section 1, Chapter 85, 2nd Extraordinary
2 Session, O.S.L. 2006, as amended by Section 1, Chapter 350, O.S.L. 2007 (62 O.S. Supp.
3 2008, Section 47), is amended to read as follows:

4 Section 47. A. There is hereby created a trust fund for Economic Development
5 Generating Excellence to be known as the "EDGE Fund". The trust fund principal shall
6 consist of all funds appropriated, transferred, donated or otherwise directed to the fund
7 by law.

8 B. There is hereby created the Board of Investors of the EDGE Fund. The Board of
9 Investors of the EDGE Fund shall:

- 10 1. Manage the assets of the EDGE Fund;
- 11 2. Invest monies in the manner in which a prudent person would invest it and in
12 accordance with laws applicable to the investment of monies in state retirement funds;

1 3. Certify the amount of funds available for expenditure each year from the EDGE
2 Fund. The amount of funds ~~available~~ that may be certified for expenditure shall be
3 limited to not more than five percent (5%) of the assets of the EDGE Fund. Any amount
4 certified for expenditure and not expended in a given fiscal year shall remain in the
5 EDGE Fund and may be carried over and expended in a future fiscal year;

6 4. Retain qualified investment managers to provide for the investment of the
7 monies of the EDGE Fund. The investment managers shall be chosen by a solicitation of
8 proposals on a competitive basis pursuant to standards set by the Board of Investors.
9 The investment managers shall manage those monies of the EDGE Fund allocated to the
10 investment managers in compliance with the overall investment guidelines set by the
11 Board of Investors. The monies of the EDGE Fund allocated to the investment managers
12 shall be managed by the investment managers in accordance with the investment
13 guidelines and other directions of the Board of Investors. The investment managers may
14 sell investments and realize losses if such action is considered advantageous to longer-
15 term return maximization. Because of the total return objective, no distinction shall be
16 made for management and performance evaluation purposes between realized and
17 unrealized capital gains and losses. The Board of Investors may have the State
18 Treasurer manage those monies not specifically allocated to the investment managers;

19 5. Select a custodial bank to settle transactions involving the investment of funds
20 in the EDGE Fund and to hold custody of the securities in the EDGE Fund portfolio. The
21 custodian shall be a bank or trust company offering pension fund master trustee and
22 master custodial services. The custodian shall be chosen by a solicitation of proposals on

1 a competitive basis pursuant to standards set by the Board of Investors. The Board of
2 Investors may also select professional investment consultants, auditors, and actuaries to
3 assist the Board of Investors in carrying out its fiduciary responsibilities. All these
4 professionals shall be selected by a solicitation of proposals on a competitive basis
5 pursuant to standards set by the Board of Investors; and

6 6. Choose the professional custodians and managers of the assets of the EDGE
7 Fund, shall establish investment and fund management guidelines, and shall adopt an
8 investment policy. The selection and engagement of investment managers, investment
9 consultants, auditors, and actuaries, and a custodian bank shall be exempt from the
10 provisions of the Oklahoma Central Purchasing Act.

11 C. The Board of Investors of the EDGE Fund shall be composed of five (5) members
12 as follows:

- 13 1. The State Treasurer, or a designee, who shall serve as chair;
- 14 2. An appointee of the Governor;
- 15 3. An appointee of the State Auditor and Inspector;
- 16 4. An appointee of the Speaker of the House of Representatives; and
- 17 5. An appointee of the President Pro Tempore of the Senate.

18 Each appointed member of the Board of Investors of the EDGE Fund shall have
19 demonstrated experience in public or private investment fund management.

20 D. The initially appointed members shall serve staggered terms as follows:

- 21 1. The term of the appointee of the Governor shall expire on June 30, 2007;

1 2. The term of the appointee of the State Auditor and Inspector shall expire on
2 June 30, 2008;

3 3. The term of the appointee of the Speaker of the House of Representatives shall
4 end on June 30, 2009; and

5 4. The term of the appointee of the President Pro Tempore of the Senate shall
6 expire on June 30, 2010.

7 Thereafter, successors shall be appointed for terms of four (4) years. An appointee
8 may be removed for cause.

9 E. The members of the Board of Investors of the EDGE Fund shall discharge their
10 duties as trustees of the EDGE Fund:

11 1. With the care, skill, prudence, and diligence, under the circumstances then
12 prevailing, that a prudent person acting in a like capacity and familiar with such matters
13 would use in the conduct of an enterprise of a like character and with like aims;

14 2. By diversifying the investments in the trust fund so as to minimize the risk of
15 large losses, unless, under the circumstances, it is clearly prudent not to do so; and

16 3. In accordance with the laws, documents, and instruments governing the trust
17 fund.

18 F. Members of the Board of Investors of the EDGE Fund shall receive no salary for
19 serving on the Board of Investors of the EDGE Fund. All members shall receive
20 necessary travel expenses for the performance of their duties from the Office of the
21 Governor in accordance with the provisions of the State Travel Reimbursement Act.

1 G. The Board of Investors of the EDGE Fund shall annually elect a vice-chair, who
2 shall preside over meetings in the absence of the chair, and any other officers, provided
3 that no member shall be elected vice-chair for more than two (2) consecutive years. The
4 Board of Investors of the EDGE Fund shall meet at least quarterly. A majority of the
5 members of the Board of Investors of the EDGE Fund shall constitute a quorum to
6 transact business, but no vacancy shall impair the right of the remaining members to
7 exercise all of the powers of the Board of Investors of the EDGE Fund.

8 H. The Board of Investors of the EDGE Fund shall be subject to the Oklahoma
9 Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures
10 Act.

11 I. Staffing for the Board of Investors of the EDGE Fund shall be provided by the
12 Office of the State Treasurer. The cost of up to two full-time-equivalent employees for
13 the Office of the State Treasurer may be considered an administrative expense of the
14 EDGE Fund; provided, such cost shall be determined by the EDGE Fund Policy Board,
15 created pursuant to Section 52 of this title.

16 J. The Board of Investors of the EDGE Fund shall submit a report of the EDGE
17 Fund's investments and asset value annually to the Governor and the State Treasurer.

18 SECTION 2. This act shall become effective November 1, 2009.

19 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
20 dated 04-07-09 - DO PASS, As Amended.