

SB 1759

THE STATE SENATE
Tuesday, February 16, 2010

Senate Bill No. 1759
As Amended

SENATE BILL NO. 1759 - By: Sykes of the Senate and Murphey of the House.

[public finance - Taxpayer Transparency Act - civil suit - attorney fees - emergency]

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

SECTION 1. AMENDATORY Section 1, Chapter 327, O.S.L.

2007 (62 O.S. Supp. 2009, Section 46), is amended to read as follows:

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

B. As used in the Taxpayer Transparency Act:

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

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

- a. the transfer of funds between two state agencies,
- b. payments of state or federal assistance to an individual,
- c. child support payments, and

1 d. refunds issued by the Oklahoma Tax Commission
2 resulting from the overpayment of tax;

3 3. "Incentive payments" means payments made under the Oklahoma
4 Quality Jobs Program Act, Saving Quality Jobs Act, Oklahoma Quality
5 Jobs Incentive Leverage Act, Small Employer Quality Jobs Incentive
6 Act, Oklahoma Specialized Quality Investment Act and Oklahoma
7 Quality Investment Act; ~~and~~

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

13 5. "Stimulus funds expenditure" means the disbursement by state
14 agencies of federal funds received pursuant to the federal American
15 Recovery and Reinvestment Act of 2009.

16 C. No later than January 1, 2008, the Office of State Finance
17 shall develop and operate a single website accessible by the public.
18 The website shall include aggregate information on state revenue,
19 expenditures and incentive payments and information on state tax
20 preferences as contained in the tax expenditure report published by
21 the Oklahoma Tax Commission pursuant to subsection E of Section 205
22 of Title 68 of the Oklahoma Statutes. No later than January 1,
23 2009, the website shall include search capabilities.

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

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

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

16 2. For stimulus fund expenditures:

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

- 1 **b.** the amount of stimulus funds expended,
- 2 **c.** the type of transaction,
- 3 **d.** the funding or expending agency, and
- 4 **e.** a descriptive purpose of the funding action or
- 5 expenditure; and

6 **3.** For each tax credit, information, including but not limited
7 to:

- 8 a. the name of each taxpayer to which a credit has been
- 9 granted,
- 10 b. the amount of such credit, and
- 11 c. the specific provision under which a credit has been
- 12 granted.

13 E. The single website provided for in subsection C of this
14 section shall include data on state revenue, expenditures and
15 incentive payments for the fiscal year 2007 and each fiscal year
16 thereafter ~~and~~, on state tax credits for tax year 2007 and each tax
17 year thereafter, and on stimulus fund expenditures for the fiscal
18 year 2009 and each fiscal year thereafter. Such data shall be
19 available on the single website no later than one hundred twenty
20 (120) days after the last day of the preceding fiscal year;
21 provided, data on stimulus fund expenditures for the fiscal year
22 2009 shall be available on the single website within one hundred
23 twenty (120) days after the effective date of this act.

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

6 G. So that the Tax Commission may fulfill its obligations as
7 required by this section, all recipients of tax credits, as that
8 term is defined herein, shall file their reports or returns claiming
9 the tax credits in an electronic format, as may be required by the
10 Tax Commission. The Tax Commission may disallow any claim of a
11 person for a tax credit due to its failure to file a report or
12 return as required under the authority of this paragraph.

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

16 I. The disclosure of information required by this section shall
17 create no liability whatsoever, civil or criminal, to the State of
18 Oklahoma or any member of the Office of State Finance or any
19 employee thereof for disclosure of the information or for any error
20 or omission in the disclosure.

21 J. Any person denied access to information required to be
22 included on the website pursuant to the provisions of this section
23 may bring a civil suit for declarative and/or injunctive relief and,

1 if successful, shall be entitled to reasonable attorney fees. If
2 the Office of State Finance or any other state agency successfully
3 defends such a civil suit and the court finds that the suit was
4 clearly frivolous, the Office of State Finance or other state agency
5 shall be entitled to reasonable attorney fees.

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

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-10-10 - DO
11 PASS, As Amended and Coauthored.