

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3288

By: McNiel

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6 AS INTRODUCED

7 An Act relating to public finance; amending Section
8 1, Chapter 41, 2nd Extraordinary Session, O.S.L. 2006
9 (62 O.S. Supp. 2009, Section 48), which relates to
10 the Oklahoma Opportunity Fund; modifying economic
11 benefits that may result in proposal for expenditure
12 from fund; modifying criteria for economic benefit;
13 modifying circumstances under which expenditures may
14 be made from fund; deleting references to Contingency
15 Review Board; requiring certain notification prior to
16 award of funds and providing procedures related
17 thereto; providing an effective date; and declaring
18 an emergency.

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1 1. All monies apportioned or allocated to the fund pursuant to
2 law;

3 2. Any amounts appropriated by the Legislature to the fund;

4 3. Interest earned on the investment of money in the fund; and

5 4. Gifts, grants, and other donations received for the fund.

6 B. All monies accruing to the credit of the fund are hereby
7 appropriated and may be budgeted and expended by the Governor for
8 the purposes of economic development and related infrastructure
9 development, subject to the unanimous approval of the Contingency
10 Review Board pursuant to subsection E of this section. Expenditures
11 from the fund shall be made upon warrants issued by the State
12 Treasurer against claims filed as prescribed by law with the
13 Director of State Finance for approval and payment.

14 C. Expenditures from the Oklahoma Opportunity Fund shall be
15 proposed by the Director of the Oklahoma Department of Commerce.
16 The Director of the Oklahoma Department of Commerce shall only
17 propose expenditures that the Director determines are expected to
18 result in a substantial economic benefit to the state through any of
19 the following:

20 1. The creation of new jobs which offer a basic health benefit
21 plan, as defined in the Oklahoma Quality Jobs Program Act; and

22 2. The maintenance of existing jobs which are at risk for
23 termination;

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1 ~~3. Investment in new real property, plant or equipment or in~~
2 ~~the improvement or retooling of existing plant or equipment; or~~

3 ~~4. Additional revenues in either ad valorem, income or sales~~
4 ~~and use taxes.~~

5 D. The Oklahoma Department of Commerce shall develop rules for
6 the process of reviewing proposed expenditures from the Oklahoma
7 Opportunity Fund and for determination of whether or not proposed
8 expenditures meet the criteria identified in subsection C of this
9 section. Criteria shall include requirements for job creation,
10 economic impact, local participation in the project and average wage
11 thresholds.

12 E. No expenditure shall be made from the Oklahoma Opportunity
13 Fund unless such expenditure ~~has been unanimously approved by the~~
14 ~~Contingency Review Board~~ meets the requirements of this section.

15 F. The Oklahoma Department of Commerce shall administer the
16 Oklahoma Opportunity Fund. The Governor may, on behalf of this
17 state and ~~with the express approval of the Contingency Review Board~~
18 upon the prior written recommendation of the Executive Director of
19 the Oklahoma Department of Commerce, award monies by entering into a
20 written agreement.

21 Prior to the Governor awarding any such money, the Executive
22 Director of the Oklahoma Department of Commerce shall notify the
23 President Pro Tempore of the Senate and the Speaker of the House of
24 Representatives of the Director's written recommendation for the

1 award of funds. The President Pro Tempore and the Speaker shall
2 have fifteen (15) days to submit to the Governor, in writing, any
3 comments they may have with respect to the recommendation by the
4 Executive Director. The Governor shall consider such comments in
5 determining whether to make the award.

6 G. Before awarding any monies pursuant to subsection F of this
7 section, the Governor shall enter into a written agreement with the
8 entity to be awarded the money specifying that:

9 1. If any or all of the amount to be awarded is used to build a
10 capital improvement:

11 a. the state retains a lien or other interest in the
12 capital improvement in proportion to the amount
13 awarded by the written agreement for the capital
14 improvement, and

15 b. if the capital improvement is sold, the recipient of
16 the award shall:

17 (1) repay to the state the money awarded to pay for
18 the capital improvement, with interest at the
19 rate and according to the other terms provided by
20 the agreement, and

21 (2) share with the state a proportionate amount of
22 any profit realized from the sale; and

23 2. If, as of the date certain provided in the agreement, the
24 award recipient has not used monies awarded under this section for

1 the intended purposes, the recipient shall repay that amount and any
2 related interest to the state at the agreed rate and on the agreed
3 terms.

4 H. The Legislature finds that for profit entities, nonprofit
5 entities and state and local governmental entities that qualify for
6 funding pursuant to the provisions of this section are a source of
7 economic benefits for the state, its political subdivisions and its
8 residents that can only be achieved through the use of specialized
9 economic incentives. All expenditures from the Oklahoma Opportunity
10 Fund shall be deemed to be in furtherance of essential governmental
11 functions for public purposes as a method of promoting and
12 sustaining economic growth and activity within the State of
13 Oklahoma.

14 SECTION 2. This act shall become effective July 1, 2010.

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

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