

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 965

By: Mazzei

6 AS INTRODUCED

7 An Act relating to state government; creating the
8 Oklahoma Competition Council Act; providing short
title; defining terms; creating the Oklahoma
9 Competition Council; providing for membership,
quorum, reimbursement, and staffing of the Council;
10 specifying duties of the Council; providing for
certain analysis; providing for certain
11 determination; providing for codification; providing
an effective date; and declaring an emergency.

12
13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 580.1 of Title 74, unless there
17 is created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Oklahoma
19 Competition Council Act".

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 580.2 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:

23 As used in the Oklahoma Competition Council Act:
24

- 1 1. "Commercial activity" means performing services or providing
2 goods that can normally be obtained from private enterprise;
- 3 2. "Commercial source" means any business or other concern that
4 is eligible for a contract award in accordance with the Central
5 Purchasing Act;
- 6 3. "Competitive process" means the process approved by the
7 Council to determine the most cost-effective privatization
8 technique;
- 9 4. "Council" means the Oklahoma Competition Council;
- 10 5. "Fully allocated cost" means a cost that includes all direct
11 personnel costs, materials and supplies, equipment, capital and
12 equipment depreciation costs, rent, maintenance and repairs,
13 utilities, insurance, travel, operations overhead, and general
14 administrative overhead;
- 15 6. "Managed competition" means a competitive process between a
16 state agency and the private sector in which:
- 17 a. the state agency submits its own proposal after
18 completing the fully allocated cost of the commercial
19 activity; and
- 20 b. the proposal is based on its most efficient proposed
21 organization to compete with a private sector bid or
22 proposal for the provision of the commercial activity;
- 23 7. "Privatization" means a variety of techniques and activities
24 that promote more involvement of the private sector in providing

1 services that have traditionally been provided by government. It
2 also includes methods of providing a portion or all of select
3 government-provided or government-produced programs and services
4 through the private sector; and

5 8. "State agency" means any board, council, authority,
6 department, agency, or institution of the state that employs state
7 or nonstate personnel.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 580.3 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 A. There is hereby created the Oklahoma Competition Council.
12 The Council shall be composed of nine (9) members to be appointed as
13 follows:

14 1. Four members to represent the private sector, of whom one
15 shall be appointed by the Governor with the advice and consent of
16 the Senate, and one each shall be appointed by the President Pro
17 Tempore of the Senate, the Speaker of the House, and the State
18 Treasurer;

19 2. the Director of the Office of State Finance, or a designee;

20 3. the Secretary of Transportation, or a designee;

21 4. the Secretary of Commerce and Tourism, or a designee;

22 5. one member of the House of Representatives, appointed by the
23 Speaker of the House of Representatives; and

24

1 6. one member of the Senate, appointed by the President Pro
2 Tempore of the Senate.

3 B. Of the members appointed to represent the private sector,
4 the members appointed by the Governor and State Treasurer shall be
5 initially appointed for terms of two (2) years; and the members
6 appointed by the President Pro Tempore of the Senate and the Speaker
7 of the House of Representatives shall be initially appointed for
8 four years. Thereafter, all shall be appointed for terms of four (4)
9 years. Initial appointments shall be made within ninety (90) days
10 of the effective date of this act. A vacancy of an appointed member
11 shall be filled in the same manner as the original appointment for
12 the unexpired portion of the term.

13 C. The Council shall select a chair and vice-chair from among
14 its members. The Council shall meet as required to comply with its
15 duties established in the Oklahoma Competition Council Act. A
16 majority of the members of the Council shall constitute a quorum.

17 D. Members of the Council shall receive no salary or
18 compensation for service on the Council, but shall be reimbursed for
19 travel expenses incurred on behalf of their service on the Council
20 pursuant to the State Travel Reimbursement Act.

21 E. The Department of Commerce shall provide the staffing needed
22 by the Council. In addition, all state agencies shall cooperate with
23 the Council in providing information and other assistance as
24 requested.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 580.4 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Council shall:

5 1. Examine methods of providing a portion or all of select
6 government-provided or government-produced programs and services
7 through the private sector by a competitive contracting program, and
8 advise the Governor, the Legislature, and executive branch agencies
9 of the Council's findings and recommendations. The Council may
10 include the following areas in its scope of study:

- 11 a. the development of an institutional framework for a
12 statewide competitive program to encourage innovation
13 and competition within state government,
- 14 b. the establishment of a system to encourage the use of
15 feasibility studies and innovation to determine where
16 competition could reduce government costs without
17 harming the public,
- 18 c. monitoring of the products and services of state
19 agencies to bring an element of competition and to
20 ensure a spirit of innovation and entrepreneurship to
21 compete with the private sector,
- 22 d. implementation of a competitive program for state
23 entities to ensure competition for the provision or
24

- 1 production of government services, or both, from both
2 public and private sector entities,
- 3 e. approval, planning, and reporting processes for
4 increased competition and privatization,
- 5 f. establishment of methodologies to determine the
6 privatization potential of a program or activity;
7 performance of cost/benefit analyses; and public and
8 private performance analyses, and
- 9 g. establishment of evaluation criteria to be used in
10 conducting performance reviews of any program or
11 activity that is subject to a privatization
12 recommendation;

13 2. Review the practices of government agencies and nonprofit
14 organizations that may constitute inappropriate competition with
15 private enterprise. The Council may develop proposals for:

- 16 a. preserving the traditional role of private enterprise,
17 b. encouraging the expansion of existing, and the
18 creation of new, private enterprise, and
19 c. monitoring inappropriate competition by nonprofit
20 organizations;

21 3. Review the procurement process under current law and make
22 recommendations for:

- 23 a. improving the use and efficiency of process,
24

- b. releasing information to the public during all stages of the process, and
- c. ensuring accountability on the part of public officials and employees involved in public projects.

B. The Council by December 1 of each year shall report its findings and recommendations to the Governor and the Legislature. The Council may make interim reports to the Governor and the Legislature as it deems advisable.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 580.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Governor or the Legislature may direct any state agency to perform a public/private performance analysis covering any commercial activity for which the Council has received a proposal from a private entity that is consistent with the purposes and duties of the Council.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 580.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Office of State Finance shall determine the amount of any existing appropriation no longer needed by a state agency or institution where all or a portion of such agency's function has been privatized in accordance with the recommendations of the Council, and shall notify the President Pro Tempore of the Senate,

1 the Speaker of the House of Representatives and the Governor before
2 September 1 of each year of such amounts.

3 SECTION 7. This act shall become effective July 1, 2009.

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

8

9 52-1-1469 JK 3/6/2009 7:55:27 AM

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24