

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2695

By: Morrissette and Pittman of
the House

and

Justice of the Senate

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11 COMMITTEE SUBSTITUTE

12 [cedar trees - Oklahoma Resource Reclamation Act -
13 private unoccupied lands - infested lands and
14 abandoned property - duty of absentee landowners -
15 authorizing state and local officials to remove
16 infestation - liability for removal costs -
17 Prisoners Public Works Act - authorizing use of
18 inmate labor - in lieu tax treatment - verification
19 by Oklahoma Tax Commission - filing of approval and
20 election with county assessor - providing for
21 apportionment - disqualifying property for certain
22 exemption - penalty for nonpayment - expanding list
23 of in lieu taxes - Purchasing Division of the

1 Department of Central Services to register certain
2 manufacturers -

3 effective date]
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6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

7 SECTION 1. NEW LAW A new section of law not to be
8 codified in the Oklahoma Statutes reads as follows:

9 This act shall be known and may be cited as the "Oklahoma
10 Resource Reclamation Act".

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 16-91 of Title 2, unless there
13 is created a duplication in numbering, reads as follows:

14 A. It is in the public interest that private unoccupied lands
15 within the state be managed to:

16 1. Discourage the proliferation of wildfires;

17 2. Reduce and control the infestation of Eastern Red Cedar
18 trees on lands; and

19 3. Modify the growth of all trees, vegetation and other fuel
20 sources from areas within one hundred (100) feet of homes or other
21 structures, so as to reduce the threat and severity of wildfires in
22 accordance with the Firewise Program guidelines adopted by the
23 National Fire Protection Association.

1 B. For purposes of this section, unoccupied private lands shall
2 be considered infested and containing abandoned property if:

3 1. Alive and growing Eastern Red Cedar trees, other tree
4 species, vegetation and other fuel sources cover eighty percent
5 (80%) or more of the total land area;

6 2. The ratio of trees to open land constitutes a forest within
7 definitions of the Oklahoma Forestry Code; and

8 3. City or county officials have determined, based on
9 information regarding infestation published on the website of the
10 Oklahoma Department of Agriculture, Food, and Forestry, that the
11 infestation is harmful or threatening to adjacent private or public
12 property.

13 C. It shall be the duty of every private absentee landowner in
14 each county in the state to manage and control infestation in a
15 manner as shall be sufficient to prevent or reduce the threat of
16 wildfires and will comply with the purposes of the Oklahoma Forestry
17 Code. It shall also be the duty of every private absentee landowner
18 to remove Eastern Red Cedar trees on the property if it is
19 determined that the property is infested as set forth in subsection
20 B of this section.

21 D. 1. Failure of an absentee landowner to manage, control and
22 remove infestation deemed to be a fire hazard shall cause those
23 trees, vegetation and other fuel sources declared by local
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1 officials, in compliance with local nuisance ordinances, to be
2 abandoned property.

3 2. By written complaint, the absentee landowner shall be
4 notified of the intent to remove the abandoned property and shall
5 have thirty (30) days to submit a response or to file a forest
6 management plan detailing actions to be taken and intent to comply
7 with fire safety recommendations. The city, county or state
8 officials shall approve or disapprove the response or forest
9 management plan.

10 3. If the absentee landowner fails to respond to the complaint
11 or to file a forest management plan, city, county or state officials
12 shall determine the most appropriate method for removal of the
13 infestation, based on information regarding infestation published on
14 the website of the Oklahoma Department of Agriculture, Food, and
15 Forestry, and take action to remove the infestation. Any costs
16 associated with the removal incurred by city, county or state
17 officials shall be the responsibility of and shall be reimbursed by
18 the absentee landowner.

19 4. An agreement to reimburse removal costs shall be entered
20 into between the absentee landowner and the county or city whose
21 nuisance or abandoned property ordinance(s) was violated or the
22 state agency whose forest management practices were violated, and
23 whose assets were expended to remove the infestation.

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1 SECTION 3. AMENDATORY 57 O.S. 2011, Section 222, is
2 amended to read as follows:

3 Section 222. A. It shall be unlawful to use prisoners assigned
4 to said public works project on any property other than public
5 property, except that inmate labor may be used on private property
6 for a public purpose.

7 B. As used in this section "public purpose" means a purpose
8 affecting the inhabitants of the state or political subdivision
9 utilizing the inmate labor, as a group, and not merely as
10 individuals. The work performed shall be essentially public and for
11 the general good of the inhabitants of the state or political
12 subdivision, and may include eradication of graffiti on private
13 buildings or harvesting Eastern Red Cedar trees. For purposes of
14 this section:

15 1. "Graffiti" shall include but not be limited to any
16 inscription, slogan or drawing, crudely scratched, drawn, printed,
17 painted or scribbled on a wall or other surface visible to the
18 public and which is likely to endanger the health or safety of the
19 public. Provided, however, that this definition shall never be
20 construed to include any sign or advertising device lawfully erected
21 or installed by the owner of property ~~or his,~~ lessee or authorized
22 agent; and

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1 2. "Owner" means the owner of record as shown by the most
2 current tax rolls of the county treasurer.

3 C. The purpose of the work performed shall be to aid the
4 federal government, a state agency or a political subdivision,
5 utilizing the inmate labor in the exercise of a governmental
6 function. Any person convicted of willfully violating the
7 provisions of this section shall be guilty of a felony.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2902.5 of Title 68, unless there
10 is created a duplication in numbering, reads as follows:

11 A. As used in this section, qualifying eastern red cedar
12 property means property:

13 1. Used in farming or ranching by the owner for the previous
14 ten (10) or more years;

15 2. With red cedar encroachment of fifty percent (50%) or more;

16 3. Registered pursuant to the Eastern Red Cedar Registry Board
17 Act; and

18 4. On which the owner is actively engaged in the removal of red
19 cedar.

20 B. Upon application by a property owner the Oklahoma Tax
21 Commission shall verify that the applicant satisfies the provisions
22 of subsection A of this section. The Oklahoma Tax Commission may
23 request such additional information as may be necessary in order to
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1 complete the verification required by this subsection. If approved,
2 the Oklahoma Tax Commission shall provide the approval to qualifying
3 property owners in writing. The Oklahoma Tax Commission shall
4 approve not more than a total of one thousand (1,000) acres of
5 qualifying eastern red cedar property at any one time. The Oklahoma
6 Tax Commission shall develop any forms necessary for application
7 pursuant to this section.

8 C. Beginning January 1, 2013, an owner of qualifying eastern
9 red cedar property that applies to and is approved by the Oklahoma
10 Tax Commission who then files proof of the Oklahoma Tax Commission
11 approval and an election with the county assessor of the county in
12 which the property is located to be subject to the in lieu tax
13 payment requirements imposed by this section shall be subject to an
14 in lieu tax which shall be levied at the rate of One Dollar (\$1.00)
15 per acre of qualifying eastern red cedar property. An election
16 authorized by this subsection shall be filed not later than March
17 15, 2013. Once the election to be subject to the in lieu treatment
18 provided by this section has been filed, it shall be irrevocable and
19 the in lieu tax treatment shall not be subject to modification.

20 D. The in lieu payment required by this section shall be paid
21 to the county treasurer of the county or counties in which
22 qualifying eastern red cedar property is located not later than
23 December 1 each year.

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1 E. The revenue derived from the in lieu tax required by this
2 section shall be apportioned by the county treasurer each year based
3 upon the ratio that the millage levy of each local taxing
4 jurisdiction in which the qualifying eastern red cedar property is
5 located bears to the total amount of all millage levies imposed by
6 all local taxing jurisdictions in which the qualifying eastern red
7 cedar property is located. The provisions of this subsection shall
8 be applicable to general fund millage levies, building fund millage
9 levies and sinking fund millage levies imposed each year.

10 F. The payment of the tax imposed pursuant to the provisions of
11 this section shall be in lieu of any and all ad valorem taxes that
12 would otherwise be imposed as a result of the millage levied against
13 the taxable value of the qualifying eastern red cedar property each
14 year.

15 G. If qualifying eastern red cedar property is subject to the
16 in lieu payment required by the provisions of this section, the
17 qualifying eastern red cedar property owner shall not be eligible
18 for the exemption for qualifying manufacturing concerns otherwise
19 authorized pursuant to Section 2902 of Title 68 of the Oklahoma
20 Statutes.

21 H. If the in lieu tax payment required by this section is not
22 paid by December 31 each year, the principal amount of the in lieu
23 tax payment shall bear interest at the rate of fifteen percent (15%)
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1 per annum and there shall be imposed an additional penalty of Five
2 Hundred Dollars (\$500.00) for each month after December that the in
3 lieu tax is not paid. The penalty shall accrue at the end of each
4 month if the in lieu tax has not been paid as of that date.

5 Interest and penalty shall be apportioned in the same manner as
6 prescribed by this section for the principal amount of the in lieu
7 tax payment.

8 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2805, is
9 amended to read as follows:

10 Section 2805. The following fees or taxes levied by the
11 provisions of the Oklahoma Statutes shall be in lieu of ad valorem
12 tax, whether in lieu of real property tax, personal property tax, or
13 both as provided by law:

14 1. The registration fees and taxes imposed upon aircraft by
15 Section 251 et seq. of Title 3 of the Oklahoma Statutes;

16 2. Registration fees for motor vehicles as provided in Section
17 1103 of Title 47 of the Oklahoma Statutes, except as otherwise
18 specifically provided;

19 3. The fee imposed upon transfers of used vehicles in lieu of
20 the ad valorem tax upon inventories of used motor vehicles by
21 Section 1137.1 of Title 47 of the Oklahoma Statutes;

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1 4. The registration and license fees imposed upon vessels and
2 motors pursuant to the Oklahoma Vessel and Motor Registration Act,
3 Section 4001 et seq. of Title 63 of the Oklahoma Statutes;

4 5. The taxes levied upon the gross production of substances
5 pursuant to Section 1001 of this title;

6 6. The taxes levied upon the gross production of substances
7 pursuant to Section 1020 of this title;

8 7. The tax imposed upon gross receipts pursuant to Section 1803
9 of this title;

10 8. The tax imposed upon certain textile products pursuant to
11 Section 2001 of this title;

12 9. The tax imposed upon certain freight cars pursuant to
13 Section 2202 of this title;

14 10. The tax imposed on certain parts of the inventories, both
15 new and used items, owned and/or possessed for sale by retailers of
16 farm tractors and other equipment pursuant to Sections ~~4~~ 5401
17 through ~~4~~ 5404 of this ~~act~~ title;

18 11. The tax imposed upon inventories of new vehicles and
19 certain vessels pursuant to Section 5301 of this title; ~~and~~

20 12. The tax imposed on qualifying eastern red cedar property
21 pursuant to Section 4 of this act; and

22 13. Such other fees or taxes as may be expressly provided by
23 law to be in lieu of ad valorem taxation.

1 SECTION 6. AMENDATORY 74 O.S. 2011, Section 85.44D, is
2 amended to read as follows:

3 Section 85.44D A. It is the intent of the Legislature that all
4 state agencies procure and use products or materials made from or
5 utilizing materials from trees harvested in Oklahoma when such
6 products or materials are available.

7 B. By ~~July 1, 2011~~ November 1, 2012, the Purchasing Division of
8 the Department of Central Services ~~when accepting bids for state~~
9 ~~purchases of products and materials shall give preference to the~~
10 ~~suppliers of wood products made from or products manufactured~~
11 ~~utilizing materials from trees harvested in Oklahoma if the price~~
12 ~~for the products and materials is not substantially higher than the~~
13 ~~price for other wood products and materials and the quality and~~
14 ~~grade requirements are otherwise comparable~~ register any
15 manufacturer of products made from trees harvested in Oklahoma which
16 is registered with the Eastern Red Cedar Registry Board pursuant to
17 Section 18-404 of Title 2 of the Oklahoma Statutes on the central
18 purchasing vendor registration system for state agency purchasing,
19 in the appropriate category or categories of commodities. The
20 Department shall waive any registration fee for the manufacturer for
21 the first year of registration.

22 C. By July 1, 2011, the Purchasing Division of the Department
23 of Central Services shall promulgate rules and implement a program
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1 for extending state procurement specifications to products made from
2 or manufactured utilizing materials from trees harvested in Oklahoma
3 and identifying the products.

4 SECTION 7. This act shall become effective November 1, 2012.

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6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
7 02/29/2012 - DO PASS, As Amended and Coauthored.
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