

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2695

By: Morrissette

AS INTRODUCED

An Act relating to cedar trees; creating the Oklahoma Resource Reclamation Act; declaring the public interest in managing private unoccupied lands in the state for certain purpose; specifying certain goals; defining infested lands and abandoned property; stating duty of absentee landowners to manage and control infestations of trees and other fuel sources; stating duty of absentee landowner to remove Eastern Red Cedar trees under certain conditions; causing certain trees, vegetation and fuel sources to be declared abandoned property under certain circumstances; providing for certain notification to and response by landowner; providing for approval or disapproval of the landowner response or fire management plan; authorizing state and local officials to remove infestation upon failure of the absentee landowner to respond; establishing liability for removal costs; providing for an agreement for reimbursement of costs for removal; amending 57 O.S. 2011, Section 222, which relates to the Prisoners Public Works Act; authorizing use of inmate labor for certain purposes; defining term; providing in lieu tax treatment for certain property; requiring verification by Oklahoma Tax Commission; allowing Oklahoma Tax Commission to request additional information; providing for approval in writing; requiring filing of approval and election with county assessor; setting in lieu tax rate; setting filing deadline; providing for payment to county treasurer; providing for apportionment according to existing millage levies; providing for in lieu treatment; disqualifying property for certain exemption; providing penalty for nonpayment; amending 68 O.S. 2011, Section 2805, which relates to ad valorem taxes; expanding list of in lieu taxes; amending 74 O.S. 2011, Section 85.44D, which relates to

purchasing preferences for products made from Oklahoma harvested trees; modifying certain date; deleting purchasing preference; requiring the Purchasing Division of the Department of Central Services to register certain manufacturers into the vendor registration system; directing the Department to waive certain fees; providing for codification; providing for noncodification; and providing an effective date.

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

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

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

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

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

1. Discourage the proliferation of wildfires;
2. Reduce and control the infestation of Eastern Red Cedar trees on lands; and
3. Modify the growth of all trees, vegetation and other fuel sources from areas within one hundred (100) feet of homes or other structures, so as to reduce the threat and severity of wildfires in

accordance with the Firewise Program guidelines adopted by the National Fire Protection Association.

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

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

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

3. At the request of city or county officials, the Oklahoma Department of Agriculture, Food, and Forestry has determined that the infestation is harmful or threatening to adjacent private or public property.

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

D. 1. Failure of an absentee landowner to manage, control and remove infestation deemed to be a fire hazard shall cause those trees, vegetation and other fuel sources declared by local

officials, in compliance with local nuisance ordinances, to be abandoned property.

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

3. If the absentee landowner fails to respond to the complaint or to file a forest management plan, city, county or state officials, including the Oklahoma Department of Agriculture, Food, and Forestry, shall determine the most appropriate method for removal of the infestation and take action to remove the infestation. Any costs associated with the removal incurred by city, county or state officials shall be the responsibility of and shall be reimbursed by the absentee landowner.

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

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

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

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

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

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

C. The purpose of the work performed shall be to aid the federal government, a state agency or a political subdivision,

utilizing the inmate labor in the exercise of a governmental function. Any person convicted of willfully violating the provisions of this section shall be guilty of a felony.

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

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

1. Used in farming or ranching by the owner for the previous ten (10) or more years;
2. With red cedar encroachment of fifty percent (50%) or more;
3. Registered pursuant to the Eastern Red Cedar Registry Board Act; and
4. On which the owner is actively engaged in the removal of red cedar.

B. Upon application by a property owner the Oklahoma Tax Commission shall verify that the applicant satisfies the provisions of subsection A of this section. The Oklahoma Tax Commission may request such additional information as may be necessary in order to complete the verification required by this subsection. If approved, the Oklahoma Tax Commission shall provide the approval to qualifying property owners in writing. The Oklahoma Tax Commission shall develop any forms necessary for application pursuant to this section.

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

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

E. The revenue derived from the in lieu tax required by this section shall be apportioned by the county treasurer each year based upon the ratio that the millage levy of each local taxing jurisdiction in which the qualifying eastern red cedar property is located bears to the total amount of all millage levies imposed by all local taxing jurisdictions in which the qualifying eastern red cedar property is located. The provisions of this subsection shall

be applicable to general fund millage levies, building fund millage levies and sinking fund millage levies imposed each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. By ~~July 1, 2011~~ November 1, 2012, the Purchasing Division of the Department of Central Services ~~when accepting bids for state purchases of products and materials shall give preference to the suppliers of wood products made from or products manufactured~~

~~utilizing materials from trees harvested in Oklahoma if the price for the products and materials is not substantially higher than the price for other wood products and materials and the quality and grade requirements are otherwise comparable~~ register any manufacturer of products made from trees harvested in Oklahoma which is registered with the Eastern Red Cedar Registry Board pursuant to Section 18-404 of Title 2 of the Oklahoma Statutes on the central purchasing vendor registration system for state agency purchasing, in the appropriate category or categories of commodities. The Department shall waive any registration fee for the manufacturer for the first year of registration.

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

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

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