

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 2748

By: Morrissette

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to cedar trees; amending 2 O.S. 2011,
9 Sections 18-401, 18-403, 18-404, 18-406, 18-407, as
10 amended by Section 19, Chapter 304, O.S.L. 2012 and
11 18-408 (2 O.S. Supp. 2015, Section 18-407), which
12 relate to the Eastern Red Cedar Registry Board Act;
13 changing name of the act; terminating the Eastern Red
14 Cedar Registry Board; providing for transfer to the
15 Office of the Eastern Red Cedar Registry Coordinator;
16 changing references to the Eastern Red Cedar Registry
17 Board; creating the Office of the Eastern Red Cedar
18 Registry Coordinator; moving administration, support
19 and expenditure of funds related to the Eastern Red
20 Cedar Registry Act from the Oklahoma Department of
21 Agriculture, Food, and Forestry to the Oklahoma
22 Conservation Commission; deleting membership and
23 appointments to the Board; providing for employment
24 upon funding and authority of the Coordinator;
providing for budgeting and funding of the salary of
the Coordinator; authorizing receipt of certain
funding; providing for deposit in the Eastern Red
Cedar Revolving Fund; limiting expenditures; adding
certain duties; creating the Oklahoma Resource
Reclamation Act; providing for implementation of the
act; defining terms; declaring the public interest in
managing private lands in the state for certain
purpose; specifying certain goals; providing for
determination of infestation; requiring notification
by the Oklahoma Tax Commission; allowing
municipalities to create certain lists; authorizing
the Tax Commission to post certain lists on its
website; encouraging certain insurers to offer
incentives for policyholders who implement a certain
program; creating the Oklahoma Woody Biomass Energy

1 Initiative Act of 2016; making legislative findings;
2 defining certain term; creating the Woody Biomass
3 Energy Initiative Council; establishing termination
4 date; providing for membership; requiring
5 appointments by a certain date; providing for
6 meetings, a quorum, vacancies and staffing;
7 prohibiting compensation and travel reimbursement;
8 making reimbursement and staffing contingent upon
9 funding; requiring the Council to comply with certain
10 acts; specifying duties; authorizing the Council to
11 apply for and use certain funds; amending 74 O.S.
12 2011, Section 85.44D, as amended by Section 757,
13 Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2015, Section
14 85.44D), which relates to purchasing preferences for
15 products made from Oklahoma-harvested trees;
16 modifying certain date; requiring the Purchasing
17 Division of the Office of Management and Enterprise
18 Services to register certain manufacturers into the
19 vendor registration system; directing the Division to
20 waive certain fees; amending Section 2, Chapter 247,
21 O.S.L. 2012 and Section 3, Chapter 247, O.S.L. 2012,
22 as amended by Section 1, Chapter 232, O.S.L. 2014 (17
23 O.S. Supp. 2015, Sections 802.2 and 802.3), which
24 relate to the Oklahoma Energy Initiative Act; adding
certain duties to the Oklahoma Energy Initiative
relating to woody biomass energy production;
expanding the membership of the Oklahoma Energy
Initiative Board; directing the Board to establish a
woody biomass working group; modifying travel
reimbursement; repealing 2 O.S. 2011, Section 18-405,
which relates to support, resources and supplies from
the Oklahoma Department of Agriculture, Food, and
Forestry; providing for codification; providing for
noncodification; providing for recodification; and
providing an effective date.

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

22 SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-401, is
23 amended to read as follows:
24

1 Section 18-401. Sections 3 through ~~9~~ 7 of this act shall be
2 known and may be cited as the "Eastern Red Cedar Registry ~~Board~~
3 Act".

4 SECTION 2. NEW LAW A new section of law not to be
5 codified in the Oklahoma Statutes reads as follows:

6 The activities and operations of the Eastern Red Cedar Registry
7 Board shall terminate on the effective date of this act. The Board
8 shall cease to exist after the effective date of this act. All
9 documents, records, property, fund balances, encumbrances,
10 obligations and other resources of the Board shall be transferred to
11 the Office of the Eastern Red Cedar Registry Coordinator. The
12 Office of the Eastern Red Cedar Registry Coordinator shall succeed
13 to any contractual rights and responsibilities incurred by the
14 Board.

15 SECTION 3. AMENDATORY 2 O.S. 2011, Section 18-403, is
16 amended to read as follows:

17 Section 18-403. A. There is hereby created the Office of the
18 Eastern Red Cedar Registry ~~Board~~ Coordinator. The ~~Board~~ Coordinator
19 shall be under the authority of the ~~State Board of Agriculture~~
20 Oklahoma Conservation Commission. ~~The Board shall consist of the~~
21 ~~following members:~~

22 ~~1. The Governor shall appoint three members as follows:~~

23 ~~a. one member representing a property owner in the state,~~

1 ~~b. one member engaged in the business of harvesting~~
2 ~~Eastern Red Cedar trees in the state, and~~

3 ~~e. one member engaged in the business of manufacturing~~
4 ~~products from Eastern Red Cedar trees;~~

5 ~~2. The Speaker of the House of Representatives shall appoint~~
6 ~~two members as follows:~~

7 ~~a. one member with a background or experience in~~
8 ~~marketing agricultural products, and~~

9 ~~b. one member with a background or experience in~~
10 ~~renewable energy;~~

11 ~~3. The President Pro Tempore of the State Senate shall appoint~~
12 ~~two members as follows:~~

13 ~~a. one member from a higher education institution in The~~
14 ~~Oklahoma State System of Higher Education who~~
15 ~~specializes in agricultural production, and~~

16 ~~b. one member from a higher education institution in The~~
17 ~~Oklahoma State System of Higher Education who~~
18 ~~specializes in forestry and forest management;~~

19 ~~4. The Commissioner of Agriculture, or a designee;~~

20 ~~5. The Executive Director of the Oklahoma Conservation~~
21 ~~Commission;~~

22 ~~6. The Executive Director of the Department of Environmental~~
23 ~~Quality, or designee;~~

24 ~~7. A member of the Corporation Commission, or designee; and~~

1 ~~8. A member appointed by and representing the Natural Resources~~
2 ~~Conservation Service of the United States Department of Agriculture.~~

3 ~~B. The initial appointment for each member appointed by the~~
4 ~~Governor shall be for progressive terms of one (1) through three (3)~~
5 ~~years. The initial appointment for each member appointed by the~~
6 ~~Speaker of the House of Representatives shall be for progressive~~
7 ~~terms of one (1) and two (2) years. The initial appointment for~~
8 ~~each member appointed by the President Pro Tempore of the State~~
9 ~~Senate shall be for progressive terms of one (1) and two (2) years.~~
10 ~~Subsequent appointments shall be for three-year terms. Members~~
11 ~~shall continue to serve until their successors are appointed. Any~~
12 ~~vacancy shall be filled in the same manner as the original~~
13 ~~appointment. No member shall serve more than two consecutive terms~~

14 The Executive Director of the Oklahoma Conservation Commission shall
15 select a person in the position of the Eastern Red Cedar Registry
16 Coordinator. The Coordinator shall have authority as provided for
17 in the Eastern Red Cedar Registry Act as well as any other authority
18 established by the Executive Director. Until funding is made
19 available for the position, the position of the Coordinator shall be
20 a voluntary unpaid position. Upon the availability of funding, the
21 position of the Coordinator shall become a state employee position
22 subject to the Oklahoma Personnel Act. Upon the availability of
23 funding, the salary of the Coordinator shall not be less than Thirty
24 Thousand Dollars (\$30,000.00) nor more than Forty Thousand Dollars

1 (\$40,000.00). All or part of the funds for the salary of the
2 Coordinator may be from monies in the Eastern Red Cedar Revolving
3 Fund. The Oklahoma Conservation Commission is authorized to receive
4 funding from private sources, such as private foundations, and
5 grants from any state or federal entity to provide all or part of
6 the funding for the salary and other expenses of the Coordinator.
7 Any such monies received by the Commission shall be deposited in the
8 Eastern Red Cedar Revolving Fund. The Commission may expend not
9 more than one percent (1%) of the monies in the Eastern Red Cedar
10 Revolving Fund each year for not more than a total of five (5) years
11 for any administrative expenses associated with providing an office
12 for the Coordinator incurred by the Commission.

13 ~~C. The members of the Board appointed pursuant to paragraphs 1,~~
14 ~~2 and 3 of subsection A of this section may nominate up to sixteen~~
15 ~~persons who are residents of the state to serve on a citizens'~~
16 ~~auxiliary group. The nominations shall be approved by a majority~~
17 ~~vote of the Board. Members of the citizens' auxiliary group shall~~
18 ~~not have voting rights and privileges on the Board and shall serve~~
19 ~~three-year terms. The citizens' auxiliary group will provide~~
20 ~~information and feedback to the Board on issues related to the~~
21 ~~Eastern Red Cedar tree and shall assist the Board in achieving its~~
22 ~~duties as set forth in the Eastern Red Cedar Registry Board Act.~~

23 SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-404, is
24 amended to read as follows:

1 Section 18-404. A. The Office of the Eastern Red Cedar
2 Registry ~~Board~~ Coordinator shall establish procedures and standards
3 and oversee the following:

4 1. The administration of the Eastern Red Cedar Registry for
5 Eastern Red Cedar trees in the state. The registry shall be a new
6 online field registry developed in cooperation with the Oklahoma
7 Conservation Commission. Private landowners in the state may
8 register the location of their property, the level of infestation of
9 Eastern Red Cedar trees on the property and whether the property is
10 classified as infested with Eastern Red Cedar tree encroachment of
11 more than fifty trees per acre which are at least five (5) feet tall
12 or less than one (1) acre with half (1/2) of the surface area
13 containing Eastern Red Cedar trees in close proximity, and average
14 size of the trees on the property. The ~~Board~~ Coordinator shall
15 develop and implement an application and registration process for
16 landowners;

17 2. Promote the harvesting of Eastern Red Cedar trees. Persons
18 or entities involved in the harvesting of Eastern Red Cedar trees or
19 the manufacturing of products from Eastern Red Cedar trees may apply
20 for registration with the ~~Board~~ Coordinator. The ~~Board~~ Coordinator
21 shall develop and implement ~~an~~ a field and online application and
22 registration process for harvesters and manufacturers;

23 3. Maintain harvesting records of Eastern Red Cedar trees in
24 the state;

1 4. Promote the development of new uses and markets for Eastern
2 Red Cedar trees and Eastern Red Cedar products;

3 5. Promote marketing, research and education efforts concerning
4 the Eastern Red Cedar tree and Eastern Red Cedar products;

5 6. Cooperate with any local, state, regional, or nationwide
6 organization or agency engaged in work or activities consistent with
7 the objectives of the Eastern Red Cedar Registry ~~Board~~ Act;

8 7. Assist communities located in any county in the state to
9 organize and establish community-owned Eastern Red Cedar projects in
10 the community and to recruit and locate private for-profit Eastern
11 Red Cedar businesses in the community including but not limited to
12 harvesting operations, biofuel plants, cedar oil manufacturing
13 facilities, or other cedar product manufacturing facilities. The
14 ~~Board~~ Coordinator shall assist in securing financing, infrastructure
15 and other resources. The ~~Board~~ Coordinator shall also provide
16 direction and assistance to the community-based projects and
17 individually owned businesses on steps to take in order to qualify
18 for existing sales tax credits and income tax credits;

19 8. Provide a process for the transfer of donated Eastern Red
20 Cedar trees from landowners registered with the ~~Board~~ Coordinator to
21 registered harvesters and manufacturers;

22 9. Establish a limit on the number of acres of private property
23 and the number of harvesters that may be registered on the registry
24 during a calendar year; ~~and~~

1 10. Travel to all counties in the state identified by the
2 Oklahoma Department of Agriculture, Food, and Forestry as having
3 known infestations or developing infestations of Eastern Red Cedar
4 for the purpose of hosting community-based meetings to inform local
5 governments and private landowners or lessors of land of the
6 opportunities for Eastern Red Cedar infestation control;

7 11. Work with local governments and private landowners or
8 lessors of land requesting assistance with referrals to existing
9 resources and to assist in the development of a long-range
10 management plan and in securing grants to assist with implementation
11 of the long-range management plan;

12 12. Work with cedar associations to provide no-cost training in
13 the area of Eastern Red Cedar infestation control; and

14 13. Take any other actions necessary to implement the Eastern
15 Red Cedar Registry ~~Board~~ Act.

16 B. The ~~Board~~ Coordinator and all landowners and harvesters
17 registered with the ~~Board~~ Coordinator shall comply with all
18 applicable provisions of Article 16 of Title 2 of the Oklahoma
19 Statutes, known as the Oklahoma Forestry Code, when managing and
20 harvesting Eastern Red Cedar trees.

21 C. ~~The Board shall annually elect a chair from among the~~
22 ~~members. The Board shall meet regularly, but in no case shall it~~
23 ~~meet less than one time per calendar quarter, and shall meet at any~~

1 ~~other times as called by the chair, or upon request of three or more~~
2 ~~members of the Board.~~

3 ~~D.~~ Upon the availability of funds, the ~~Board~~ Coordinator shall
4 prepare an annual report of all activities for each fiscal year.
5 The annual report shall be filed with the Governor, Speaker of the
6 House of Representatives, and the President Pro Tempore of the State
7 Senate.

8 SECTION 5. AMENDATORY 2 O.S. 2011, Section 18-406, is
9 amended to read as follows:

10 Section 18-406. A. Eastern Red Cedar trees removed from lands
11 owned by any state agency or any person or entity with authority to
12 remove the trees from state-owned lands may be provided to
13 harvesters registered with the Office of the Eastern Red Cedar
14 Registry ~~Board~~ Coordinator in a manner consistent with law.

15 B. A state agency may cooperate with the Office of the Eastern
16 Red Cedar Registry ~~Board~~ Coordinator to issue permits to registered
17 harvesters to allow the harvesting of Eastern Red Cedar trees on
18 land owned by the state agency.

19 SECTION 6. AMENDATORY 2 O.S. 2011, Section 18-407, as
20 amended by Section 19, Chapter 304, O.S.L. 2012 (2 O.S. Supp. 2015,
21 Section 18-407), is amended to read as follows:

22 Section 18-407. There is hereby created in the State Treasury a
23 revolving fund ~~for the Eastern Red Cedar Registry Board~~ to be
24 designated the "Eastern Red Cedar Revolving Fund". The fund shall

1 be a continuing fund, not subject to fiscal year limitations, and
2 shall consist of all monies received by the ~~State Board of~~
3 ~~Agriculture~~ Oklahoma Conservation Commission for the Office of the
4 Eastern Red Cedar Registry Board Coordinator from the state income
5 tax checkoff as provided for in Section ~~18-408~~ 7 of this ~~title act~~,
6 the special license plate issued pursuant to Section 1135.5 of Title
7 47 of the Oklahoma Statutes, any state-appropriated funds, federal
8 funds, donations, grants, contributions, and gifts from any public
9 or private source. All monies accruing to the credit of said fund
10 are hereby appropriated and may be budgeted and expended by the
11 ~~State Board of Agriculture~~ Oklahoma Conservation Commission for
12 payment of the salary of the Office of the Eastern Red Cedar
13 Registry Coordinator for administrative expenses of the Commission
14 as authorized in Section 3 of this act and as otherwise directed by
15 ~~the Eastern Red Cedar Registry Board~~ and for the purposes set forth
16 in the Eastern Red Cedar Registry ~~Board~~ Act. Expenditures from said
17 fund shall be made upon warrants issued by the State Treasurer
18 against claims filed as prescribed by law with the Director of the
19 Office of Management and Enterprise Services for approval and
20 payment.

21 SECTION 7. AMENDATORY 2 O.S. 2011, Section 18-408, is
22 amended to read as follows:

23 Section 18-408. A. Each individual taxpayer required to file a
24 state income tax return who desires to contribute to the Eastern Red

1 Cedar Revolving Fund, as created in Section ~~8~~ 6 of this act, may
2 designate the contribution on the appropriate income tax form. The
3 contribution may not increase or decrease the income or liability of
4 the taxpayer and may be made by reducing the income tax refund of a
5 taxpayer by the amount designated or by accepting additional payment
6 from the taxpayer by the amount designated, whichever is
7 appropriate.

8 B. 1. The Oklahoma Tax Commission shall include on each state
9 individual income tax return form for tax years beginning after
10 December 31, 2010, an opportunity for the taxpayer to donate for the
11 benefit of the Eastern Red Cedar Revolving Fund. The instructions
12 accompanying the income tax form shall be provided to the Oklahoma
13 Tax Commission by the Office of the Eastern Red Cedar Registry Board
14 Coordinator and shall contain a description of the purpose for which
15 the Eastern Red Cedar Revolving Fund was established and information
16 on the use of monies from the income tax contribution.

17 2. Taxpayers who are entitled to refunds shall have the refunds
18 reduced by the amount designated by the taxpayer. The Oklahoma Tax
19 Commission shall annually determine the total amount designated plus
20 the amount received in excess payments and shall report the total
21 amount to the Office of the State Treasurer. The State Treasurer
22 shall credit the total amount to the Eastern Red Cedar Revolving
23 Fund ~~created in Section 8 of this act~~ at the earliest possible time.
24

1 C. The incremental cost of administration of contributions
2 shall be paid out of the fund to the Oklahoma Tax Commission from
3 amounts received pursuant to this section before funds are expended
4 for the purposes of the fund.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5-2-101 of Title 27A, unless
7 there is created a duplication in numbering, reads as follows:

8 Sections 8 through 11 of this act shall be known and may be
9 cited as the "Oklahoma Resource Reclamation Act".

10 SECTION 9. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 5-2-102 of Title 27A, unless
12 there is created a duplication in numbering, reads as follows:

13 The provisions of the Oklahoma Resource Reclamation Act shall be
14 implemented in accordance with the provisions of Sections 22-110.1
15 and 22-112.4 of Title 11 of the Oklahoma Statutes.

16 SECTION 10. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 5-2-103 of Title 27A, unless
18 there is created a duplication in numbering, reads as follows:

19 A. For purposes of the Oklahoma Resource Reclamation Act:

20 1. "Eastern Red Cedar" shall mean only the *Juniperus Virginiana*
21 tree; and

22 2. "Infestation of Eastern Red Cedar" means not less than fifty
23 trees five (5) feet in height per acre.
24

1 B. For the purposes of the Oklahoma Resource Reclamation Act,
2 it is in the public interest that private occupied and unoccupied
3 lands within the state be managed to:

4 1. Discourage the proliferation of wildfires;

5 2. Reduce and control the infestation of Eastern Red Cedar
6 trees on lands;

7 3. Modify the growth of Eastern Red Cedar trees from areas
8 within one hundred (100) feet of homes or other structures, so as to
9 reduce the threat and severity of wildfires by creating a defensible
10 zone in accordance with the Firewise Program guidelines adopted by
11 the National Fire Protection Association;

12 4. Observe and protect all land-use rights of adjacent private
13 property landowners and public property to include methods and
14 programs to discourage passive land-management practices;

15 5. Protect water rights, including the demise of farm ponds,
16 naturally occurring or manmade lakes, naturally occurring streams
17 and adequate surface and subsurface water tables; and

18 6. Protect the real property rights of established categories
19 of property as defined by the Oklahoma Tax Commission and county
20 assessors to include the preservation of grazing land, cropland,
21 wildlife habitat and commercial stands of naturally occurring
22 timberland consisting of valuable timbers other than Eastern Red
23 Cedar trees at infestation levels.
24

1 C. It is in the public interest that local county and municipal
2 governments, including county assessors, shall, as funding is made
3 available, be allowed to engage the Oklahoma Tax Commission in a
4 process of property-owner notification of the infestation of Eastern
5 Red Cedar. A determination of infestation shall not require a
6 census but shall be determined by observational analysis made by
7 representatives of local governments gathering and recording
8 observational and estimated infestation data. The data may be
9 submitted to the Tax Commission, which shall upon receipt issue by
10 mail a notification of infestation to the landowner of record. The
11 notification shall include the data gathered by local governments.
12 Nothing in this section shall prohibit a municipality from creating
13 a list of the property owners or the designees of property owners of
14 residential, commercial or leased real property to ensure the public
15 safety and welfare of its citizens. The Tax Commission may post
16 upon its website a list of private and public landowners which have
17 been issued notices of infestation. The provisions of this section
18 shall not subvert, preclude or interfere with the right of any
19 public or private property owner under existing law to pursue
20 damages and compensation in a court of law.

21 SECTION 11. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5-2-104 of Title 27A, unless
23 there is created a duplication in numbering, reads as follows:
24

1 Insurers duly licensed in the state writing property insurance
2 are hereby encouraged to provide incentives to policyholders who
3 implement and conform to Firewise Program guidelines adopted by the
4 National Fire Protection Association, including creating a one-
5 hundred-foot defensible zone free of Juniperus Virginiana, commonly
6 known as the Eastern Red Cedar, around homes and other structures.

7 SECTION 12. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 5-3-101 of Title 27A, unless
9 there is created a duplication in numbering, reads as follows:

10 Sections 12 and 13 of this act shall be known and may be cited
11 as the "Oklahoma Woody Biomass Energy Initiative Act of 2016".

12 SECTION 13. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 5-3-102 of Title 27A, unless
14 there is created a duplication in numbering, reads as follows:

15 A. The Legislature makes the following findings:

16 1. That Oklahoma has an abundance of biomass which is defined
17 as organic material that is available on a renewable or recurring
18 basis including:

19 a. materials, precommercial thinnings or invasive species
20 from National Forest System land, Department of
21 Defense lands or public lands, as defined by law,
22 that:

23 (1) are byproducts of preventive treatments or are
24 removed to reduce hazardous fuels, to reduce or

1 contain disease or insect infestation or to
2 restore ecosystem health,

3 (2) would not otherwise be used for higher-value
4 products, and

5 (3) are harvested in accordance with applicable law
6 and a state or federally approved sustainable
7 forest management plan,

8 b. plant material from nonfederal land or land belonging
9 to a Native American or Native Tribe that is held in
10 trust by the United States or subject to a restriction
11 against alienation imposed by the United States,
12 including:

13 (1) feed grains,

14 (2) other agricultural commodities,

15 (3) other plants and trees harvested in accordance
16 with applicable law and a state or federally
17 approved sustainable forest management plan, and

18 (4) algae, and

19 c. residual material from nonfederal land or land
20 belonging to a Native American or Native Tribe that is
21 held in trust by the United States or subject to a
22 restriction against alienation imposed by the United
23 States, including:

24 (1) crop residue,

- 1 (2) other vegetative material including wood waste
2 and wood residues,
- 3 (3) animal waste and byproducts including fats, oils,
4 greases and manure,
- 5 (4) gas derived from the biodegradation of solid
6 waste, and
- 7 (5) the organic portion of municipal solid materials
8 including all cellulosic residuals segregated
9 from waste material, food waste, wastewater
10 treatment plants and yard waste;

11 2. That for purposes of the Oklahoma Woody Biomass Energy
12 Initiative Act of 2016, "woody biomass" means a material derived
13 from trees, shrubs, bushes, grasses including switch grass,
14 miscanthus or products made from woody plants;

15 3. That the *Juniperus Virginiana*, commonly known as the Eastern
16 Red Cedar tree, is a native tree which, due to conditions, is
17 encroaching upon ecosystems outside of its historic habitat at a
18 rate of seven hundred (700) acres per day in Oklahoma, contributing
19 to loss of water, grazing lands and wildlife habitat, fire loss and
20 allergic illness;

21 4. That the objectives of the provisions of the Eastern Red
22 Cedar Registry Act do not include the development of a specific
23 biomass energy use plan, but are specifically to assist state and
24

1 private landowners with gaining information regarding the control of
2 the Eastern Red Cedar tree and to provide educational support;

3 5. That woody biomass is a renewable energy source which can be
4 used to diversify the energy portfolio of the state when converted
5 to fuel known as biofuel and which can be pelleted or liquefied to
6 mix with natural gas and coal and burned in energy-efficient
7 boilers;

8 6. That based on a per million British Thermal Unit (BTU) by
9 fuel type, the rates for biofuel from woody biomass averaged in 2010
10 Two Dollars and fifty cents (\$2.50) for wood chips with forty
11 percent (40%) moisture as compared with electricity which averaged
12 Sixteen Dollars and fifty cents (\$16.50);

13 7. That in order for biofuel projects to be successful there
14 must be a sustainable supply of woody biomass and a well-developed
15 supply-chain formula making cover crops of switch grass or plants
16 such as miscanthus that can be harvested and pelletized an essential
17 part of the woody biomass statewide plan;

18 8. That harvested woody biomass can be produced for use as
19 chips, pellets and other forms which have energy values higher than
20 all traditional fuel sources, with Eastern Red Cedar having a
21 considerably higher BTU value;

22 9. That nearly every state in the United States now has some
23 type of public woody biomass project operating in either pilot
24 project or full-functioning form, with most focusing on the use of

1 woody biomass as an economical energy resource or as a means to
2 reduce energy costs for public facilities and state agencies which
3 now account for nearly two-thirds (2/3) of all energy produced;

4 10. That under Section 35-206 of Title 11 of the Oklahoma
5 Statutes the expenditure of funds for the purpose of conservation of
6 electricity or natural gas by public agencies is in the public
7 interest; and

8 11. That in Oklahoma woody biomass could be used to reduce
9 energy costs for public facilities such as the state correctional
10 facilities, and all other public facilities. The Department of
11 Corrections paid these high energy costs while at the same time
12 employees at the correctional facilities were forced to undergo
13 furloughs and staffing reductions. Further, the Department of
14 Corrections is authorized under Section 222 of Title 57 of the
15 Oklahoma Statutes to use prisoners on public-purpose projects
16 including harvesting Eastern Red Cedar trees.

17 B. There is hereby created to continue until July 1, 2019, the
18 Woody Biomass Energy Initiative Council.

19 C. The Council shall be composed of members as follows:

20 1. A member of the Oklahoma House of Representatives, appointed
21 by the Speaker of the House of Representatives;

22 2. A member of the Oklahoma State Senate, appointed by the
23 President Pro Tempore of the State Senate;

1 3. Two members who are engaged in the business of manufacturing
2 or selling biofuel furnaces, one member to be appointed by the
3 Speaker of the House of Representatives and one member to be
4 appointed by the President Pro Tempore of the State Senate;

5 4. The Eastern Red Cedar Registry Coordinator;

6 5. The Executive Director of the Department of Environmental
7 Quality, or designee;

8 6. An employee in the Forestry Services Division of the
9 Oklahoma Department of Agriculture, Food, and Forestry appointed by
10 the Commissioner of Agriculture;

11 7. The Director of the Department of Corrections, or designee;

12 8. The Director of the Oklahoma Department of Commerce, or
13 designee;

14 9. A member appointed by the Director of the Oklahoma State
15 Energy Office within the Oklahoma Department of Commerce and
16 representing the Oklahoma Renewable Energy Council;

17 10. A member of the Corporation Commission, or designee;

18 11. The Executive Director of the Oklahoma Conservation
19 Commission, or designee;

20 12. A member appointed by and representing the Natural
21 Resources Conservation Service of the United States Department of
22 Agriculture;

23 13. A member appointed by and representing the United States
24 Environmental Protection Agency; and

1 14. A member appointed by and representing the United States
2 Department of Energy.

3 D. Appointments to the Council shall be made within thirty (30)
4 days after the effective date of this act. Meetings of the Council
5 shall be held at least quarterly at the call of the chair. Members
6 shall serve at the pleasure of their appointing authorities. A
7 majority of the members of the Council shall constitute a quorum to
8 transact business, but no vacancy shall impair the right of the
9 remaining members to exercise all the powers of the Council. A
10 vacancy on the Council shall be filled by the original appointing
11 authority. Contingent upon the availability of funding, the
12 Oklahoma Conservation Commission shall provide staff, support and
13 information as requested by the Council.

14 E. Members of the Council shall receive no compensation or
15 travel reimbursement for serving on the Council.

16 F. The Council shall act in accordance with the provisions of
17 the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

18 G. The Council shall:

19 1. Develop an Oklahoma Renewable Woody Biomass Energy Usage
20 Plan which will:

- 21 a. include appropriate harvesting and fuel-burning
22 guidelines, equipment and techniques that are in
23 compliance with any laws governing the use of biomass
24 for energy production,

- b. include recommendations for the creation of an adequate supply chain and adequate levels of available biomass from naturally occurring or cultivated cover crops,
- c. take into consideration all environmental quality and energy standards,
- d. include a funding plan for utilization,
- e. identify state lands suitable for use in the production of biomass, and
- f. identify available private resources to implement the plan, including resources for implementing the duties of the Office of the Eastern Red Cedar Registry Coordinator;

2. Investigate the feasibility of constructing and installing woody biomass furnaces in correctional facilities operated by the Department of Corrections, public schools and other state agencies, which furnaces can use woody biomass harvested exclusively within Oklahoma from state and private lands;

3. Investigate the feasibility of using woody biomass for the purpose of blending with natural gas, coal, cogeneration or gasification methods, as well as other emerging applications; and

4. Make recommendations to the Legislature and the Governor on the findings of the Council.

1 H. The Council is hereby authorized to make application for,
2 seek and utilize any funds received including, but not limited to,
3 any state or federal funds, grants including renewable energy grants
4 available through the United States Department of Energy and the
5 United States Department of Agriculture or private donations.

6 SECTION 14. AMENDATORY 74 O.S. 2011, Section 85.44D, as
7 amended by Section 757, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
8 2015, Section 85.44D), is amended to read as follows:

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

13 B. By ~~July 1, 2011~~ November 1, 2016, the Purchasing Division of
14 the Office of Management and Enterprise Services when accepting bids
15 for state purchases of products and materials shall give preference
16 to the suppliers of wood products made from or products manufactured
17 utilizing materials from trees harvested in Oklahoma if the price
18 for the products and materials is not substantially higher than the
19 price for other wood products and materials and the quality and
20 grade requirements are otherwise comparable.

21 C. The Purchasing Division of the Office of Management and
22 Enterprise Services shall register any manufacturer of products made
23 from trees harvested in Oklahoma which is registered with the Office
24 of the Eastern Red Cedar Registry Coordinator on the central

1 purchasing vendor registration system for state agency purchasing in
2 the appropriate category or categories of commodities. The Division
3 shall waive any registration fee for the manufacturer for the first
4 year of registration.

5 D. By July 1, 2011, the Purchasing Division of the Office of
6 Management and Enterprise Services shall promulgate rules and
7 implement a program for extending state procurement specifications
8 to products made from or manufactured utilizing materials from trees
9 harvested in Oklahoma and identifying the products.

10 SECTION 15. AMENDATORY Section 2, Chapter 247, O.S.L.
11 2012 (17 O.S. Supp. 2015, Section 802.2), is amended to read as
12 follows:

13 Section 802.2 A. There is hereby created the Oklahoma Energy
14 Initiative, referred to in this act as the Initiative, which shall
15 serve as a strategic program designed to create, advance, and
16 promote new and existing energy research and development efforts
17 related to Oklahoma's core energy competencies by:

18 1. Promoting research and development in the areas of
19 conventional and unconventional oil and natural gas development and
20 production, CO₂ enhanced oil recovery, wind forecasting, advanced
21 biofuels, biofuels from woody biomass, energy storage, water
22 management, energy policy and economic analysis, energy system
23 optimization, renewable energy integration into the electrical grid,
24 and similar energy technologies;

1 2. Fostering communication and collaboration between state and
2 federal governmental agencies, institutions of higher education,
3 nonprofit research institutions, and private entities located
4 throughout Oklahoma;

5 3. Advancing research and development programs that provide
6 benefits to all industries and regions of the state;

7 4. Streamlining research and development efforts between
8 private and public industry to create synergistic relationships that
9 coordinate, not duplicate, research efforts;

10 5. Establishing Oklahoma as a regional resource and
11 clearinghouse for transformative energy technologies in the areas of
12 traditional energy and renewable resource research and development;

13 6. Developing a renewable woody biomass energy usage plan that
14 will include appropriate harvesting and fuel-burning guidelines and
15 techniques for the use of biomass for energy production;

16 7. Attracting best-in-class researchers to Oklahoma in
17 competency areas aligned with Oklahoma's natural resource base;

18 ~~7.~~ 8. Coordinating with the Oklahoma Department of Commerce to
19 enhance venture capital investment in energy-related research and
20 business opportunities; and

21 ~~8.~~ 9. Promoting seed funding that can be leveraged against
22 state, federal, and private-source funding to establish sufficient
23 startup resources.
24

1 B. The Initiative may receive assistance from any state agency
2 or public entity to implement the provisions of the Oklahoma Energy
3 Initiative Act, including, but not limited to, administrative
4 assistance, staffing or legal counsel and provision of office space
5 or equipment as necessary. Assistance agreements may be made by
6 memorandums of understanding or as otherwise provided by law.

7 SECTION 16. AMENDATORY Section 3, Chapter 247, O.S.L.
8 2012, as amended by Section 1, Chapter 232, O.S.L. 2014 (17 O.S.
9 Supp. 2015, Section 802.3), is amended to read as follows:

10 Section 802.3 A. The Oklahoma Energy Initiative shall be
11 administered and governed by the Oklahoma Energy Initiative Board,
12 made up of representatives of the contributing institutions of the
13 Initiative which initially shall be the University of Oklahoma,
14 Oklahoma State University, Oklahoma City University, the University
15 of Tulsa, and the Noble Foundation. Additional contributing
16 institutions may be added at the discretion of the Board, as such
17 institutions contribute to the purpose, objectives and research
18 coordinated by the Initiative. Additional contributing institutions
19 may include state, federal, and private agencies, institutions of
20 higher education, nonprofit research institutions, and private
21 entities.

22 B. The Board shall initially consist of ~~six (6)~~ thirteen (13)
23 members as follows:
24

1 1. One member, who shall serve as the chair of the Board, shall
2 be the Secretary of Energy and Environment or a member otherwise
3 appointed by the Governor;

4 2. One member shall be the Vice President of Research from the
5 University of Oklahoma or a member otherwise appointed by the
6 President of the University of Oklahoma;

7 3. One member shall be the Vice President of Research from
8 Oklahoma State University or a member otherwise appointed by the
9 President of Oklahoma State University;

10 4. One member shall be the Vice President of Research from the
11 University of Tulsa or a member otherwise appointed by the Governor;

12 5. One member shall be the Vice President of Research from
13 Oklahoma City University or a member otherwise appointed by the
14 Speaker of the House of Representatives; ~~and~~

15 6. One member who shall represent the Samuel Roberts Noble
16 Foundation appointed by the President Pro Tempore of the Senate;

17 7. One member shall be an employee of the Oklahoma Department
18 of Commerce appointed by the Director of the Oklahoma Department of
19 Commerce;

20 8. One member shall have experience in the financing of public
21 development projects to be appointed by the Governor;

22 9. One member shall have experience in marketing to be
23 appointed by the Governor;
24

1 10. Two members who have served on a board of directors of a
2 nonprofit entity and who have experience in strategic planning and
3 board development appointed by the Speaker of the House of
4 Representatives; and

5 11. Two members who have served on a board of directors of a
6 corporation located in Oklahoma who have experience in strategic
7 planning and board development appointed by the President Pro
8 Tempore of the Senate.

9 C. Board members shall serve for a term of four (4) years,
10 which shall begin on January 1 of the first year of the appointment
11 and end on December 31 of the fourth year. There shall be no limit
12 to the number of consecutive terms served. If a vacancy should
13 occur during a member's term, the appointing authority for the
14 vacant position shall appoint a new member to fill the remainder of
15 the unexpired term. Board members shall ~~serve without~~ receive no
16 compensation but may be eligible for necessary or travel expenses
17 pursuant to the State Travel Reimbursement Act reimbursement for
18 servng on the Board.

19 D. The Board shall be responsible for establishing procedures
20 for the Initiative and operations of the Board. The rules may
21 provide for protection from public disclosure of trade secrets and
22 proprietary information of any kind, including, but not limited to,
23 data, processes and technology, as the Board determines necessary.
24

1 E. The Board shall undertake activities and commission
2 programs, through the contributing institutions, to achieve the
3 purpose and satisfy the objectives of the Initiative as provided in
4 the Oklahoma Energy Initiative Act. The Board shall establish a
5 working group of members which shall be responsible for developing
6 the renewable woody biomass energy usage plan. The Board shall have
7 authority to distribute funding for such activities and programs.
8 The Board may employ staff as it deems necessary.

9 F. The Board shall prepare an annual, written report to
10 summarize the annual progress of the Initiative, including summaries
11 of its programs and their progress and outcomes. The report shall
12 be made available to the public and shall be distributed to the
13 Governor, the President Pro Tempore of the Senate, and the Speaker
14 of the House of Representatives.

15 G. The provisions of The Oklahoma Central Purchasing Act shall
16 not apply to any project, activity or contract of the Initiative or
17 the Board.

18 H. No Board member or any person acting on behalf of the Board
19 or Initiative executing any contracts, commitments or agreements
20 issued by or on behalf of the Oklahoma Energy Initiative shall be
21 personally liable for the contracts, commitments, or agreements or
22 be subject to any personal liability or accountability by reason
23 thereof. No director or any person acting on behalf of the Board
24

1 or Initiative shall be personally liable for damage or injury
2 resulting from the performance of duties hereunder.

3 SECTION 17. REPEALER 2 O.S. 2011, Section 18-405, is
4 hereby repealed.

5 SECTION 18. RECODIFICATION 2 O.S. 2011, Section 18-401,
6 as amended by Section 1 of this act, shall be recodified as Section
7 3-6-101 of Title 27A of the Oklahoma Statutes, unless there is
8 created a duplication in numbering.

9 SECTION 19. RECODIFICATION 2 O.S. 2011, Section 18-402,
10 shall be recodified as Section 3-6-102 of Title 27A of the Oklahoma
11 Statutes, unless there is created a duplication in numbering.

12 SECTION 20. RECODIFICATION 2 O.S. 2011, Section 18-403,
13 as amended by Section 3 of this act, shall be recodified as Section
14 3-6-103 of Title 27A of the Oklahoma Statutes, unless there is
15 created a duplication in numbering.

16 SECTION 21. RECODIFICATION 2 O.S. 2011, Section 18-404,
17 as amended by Section 4 of this act, shall be recodified as Section
18 3-6-104 of Title 27A of the Oklahoma Statutes, unless there is
19 created a duplication in numbering.

20 SECTION 22. RECODIFICATION 2 O.S. 2011, Section 18-406,
21 as amended by Section 5 of this act, shall be recodified as Section
22 3-6-105 of Title 27A of the Oklahoma Statutes, unless there is
23 created a duplication in numbering.
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1 SECTION 23. RECODIFICATION 2 O.S. 2011, Section 18-407,
2 as last amended by Section 6 of this act, shall be recodified as
3 Section 3-6-106 of Title 27A of the Oklahoma Statutes, unless there
4 is created a duplication in numbering.

5 SECTION 24. RECODIFICATION 2 O.S. 2011, Section 18-408,
6 as amended by Section 7 of this act, shall be recodified as Section
7 3-6-107 of Title 27A of the Oklahoma Statutes, unless there is
8 created a duplication in numbering.

9 SECTION 25. This act shall become effective November 1, 2016.

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