

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1400

By: Pugh of the Senate

and

Osburn (Mike) of the House

11 COMMITTEE SUBSTITUTE

12 An Act relating to state government; consolidating
13 the Oklahoma Department of Commerce and the Office of
14 the Lieutenant Governor; transferring certain duties
15 and responsibilities, personnel, funds, records,
16 encumbrances, equipment and other items; providing
17 requirements pertaining to the transfer of employees;
18 amending 74 O.S. 2011, Section 5003.2, which relates
19 to the Oklahoma Department of Commerce, modifying the
20 Oklahoma Department of Commerce to a division of the
21 Office of the Lieutenant Governor; stating that
22 existing rules shall remain in effect; amending 74
23 O.S. 2011, Section 5003.5, which relates to the
24 Oklahoma Department of Commerce; specifying that the
 Director shall be appointed by the Lieutenant
 Governor and with the advice and consent of the
 Senate; specifying that the Lieutenant Governor shall
 serve as the Secretary of Commerce and shall not be
 entitled to compensation for service as a cabinet
 secretary; amending 74 O.S. 2011, Section 5012, as
 amended by Section 1027, Chapter 304, O.S.L. 2012 (74
 O.S. Supp. 2017, Section 5012), which relates to the
 Oklahoma Department of Commerce Revolving Fund;
 modifying entity authorized for the administration of
 certain revolving funds; creating within the Oklahoma
 Department of Commerce the Oklahoma Board of

Commerce; providing appointing authority;
establishing membership requirements; establishing
rights and duties of the board; providing for
codification; 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 to be codified
in the Oklahoma Statutes as Section 5003.1a of Title 74, unless
there is created a duplication in numbering, reads as follows:

A. Upon the effective date of this act, the Oklahoma Department
of Commerce is hereby consolidated with the Office of the Lieutenant
Governor.

B. All assets, funds, liabilities, allotments, purchase orders,
outstanding financial obligations, encumbrances, records, vehicles,
equipment and other property of the Oklahoma Department of Commerce
shall be transferred to the Office of the Lieutenant Governor.

C. Personnel employed by the Oklahoma Department of Commerce on
the effective date of this act, shall be transferred to the Office
of the Lieutenant Governor.

D. The classified and unclassified employees who are
transferred pursuant to this section shall be subject to the
following provisions:

1. Classified employees shall remain subject to the provisions
of the Merit Protection System of Personnel Administration, as
provided in the Oklahoma Personnel Act;

1 2. Unclassified employees transferred to the Office of the
2 Lieutenant Governor shall remain in the unclassified service and
3 shall serve at the pleasure of the Lieutenant Governor;

4 3. All employees who are transferred pursuant to this act shall
5 retain leave, sick and annual time earned and any retirement and
6 longevity benefits which have accrued during their employment with
7 the state. The salaries of employees who are transferred shall not
8 be reduced as a direct and immediate result of the transfer;

9 4. If the Office of the Lieutenant Governor should implement a
10 reduction in force, all employees transferred pursuant to this act
11 shall be credited for the time they were employed by the Oklahoma
12 Department of Commerce; and

13 5. The transfer of employees shall be coordinated with the
14 Office of the Lieutenant Governor.

15 SECTION 2. AMENDATORY 74 O.S. 2011, Section 5003.2, is
16 amended to read as follows:

17 Section 5003.2 A. Recognizing the geographic diversity of this
18 state, Oklahoma needs one central, primary public-sector economic
19 development agency for the state in order to manage or coordinate
20 all public sector economic development activity.

21 Oklahoma needs an agency to work at the community and firm level
22 to:

23 1. Create new and higher quality jobs for the people of this
24 state through the expansion, creation, restructuring and recruitment

1 of export-oriented Oklahoma firms which produce value-added goods,
2 services and processes;

3 2. Encourage statewide economic diversification and stability;

4 3. Maintain a two-way flow of information between the central
5 state economic development agency and firms, farms and communities;

6 4. Implement the strategic economic development five-year plan;
7 and

8 5. Carry out policy development and research in support of
9 Oklahoma Futures.

10 B. The Oklahoma Department of Commerce is hereby ~~constituted an~~
11 ~~agency of state government~~ a division of the Office of the
12 Lieutenant Governor.

13 C. Whenever the terms "Department of Economic Development" or
14 "Department of Economic and Community Affairs" appear in the
15 Oklahoma Statutes they shall mean and refer to the Oklahoma
16 Department of Commerce.

17 D. Rules promulgated prior to the effective date of this act by
18 the Oklahoma Department of Commerce shall remain in full force and
19 effect.

20 SECTION 3. AMENDATORY 74 O.S. 2011, Section 5003.5, is
21 amended to read as follows:

22 Section 5003.5 A. The Director of the Department of Commerce
23 shall be appointed by the Lieutenant Governor with the advice and
24 consent of the Senate. The Director shall serve at the pleasure of

1 the Lieutenant Governor, and shall continue to serve until a
2 successor is duly appointed and qualified, and shall report to the
3 Lieutenant Governor. The salary of the Director shall be set by
4 law.

5 B. The Director shall be qualified for such position by
6 character, personality, ability, education, training and successful
7 administrative experience in the public or private sector.

8 C. The Director shall employ such persons as are necessary to
9 implement the powers and duties of the Department. Because many of
10 the powers and duties of the Department involve working closely with
11 the private sector, certain employee positions of the Department
12 must be governed, classified and compensated in a manner that
13 compares equally to similar positions in the private sector.
14 Therefore, in the annual business plan, the Director shall list,
15 describe and justify all such positions and their compensation and
16 shall designate and place them in unclassified status, exempt from
17 the provisions of the Oklahoma Personnel Act. All other employees
18 and positions shall be classified and subject to the provisions of
19 the Merit System of Personnel Administration as provided in the
20 Oklahoma Personnel Act. Provided, nothing in this section shall be
21 construed to limit the authority of the Legislature to specify the
22 status of positions otherwise by law. Neither shall the Director
23 have the authority to circumvent, disregard or otherwise disobey
24 specific provisions of law regarding positions in the Department.

1 D. The Director shall serve on the board of:

2 1. The Oklahoma Industrial Finance Authority;

3 2. The Oklahoma Science and Technology Research and Development
4 Board;

5 3. The Oklahoma Development Finance Authority;

6 4. The Executive Bond Oversight Commission; and

7 5. The Oklahoma Ordnance Works Authority.

8 E. The Director may serve as administrator of any interlocal
9 agreement or compact to pursue economic development and to assign
10 any employees of the Department or employee personnel to carry out
11 duties or obligations pursuant to any interlocal agreement or
12 compact for economic development.

13 F. The Director, at his or her discretion, may approve payment
14 for affiliations or memberships of the Department or, if necessary,
15 associate memberships for individual employees in international,
16 national, or state economic development councils, professional
17 organizations, or governmental associations.

18 G. The Lieutenant Governor shall serve as the Secretary of
19 Commerce and Tourism, and shall not be entitled to any additional
20 compensation for service as a cabinet secretary.

21 SECTION 4. AMENDATORY 74 O.S. 2011, Section 5012, as
22 amended by Section 1027, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
23 2017, Section 5012), is amended to read as follows:
24

1 Section 5012. ~~A.~~ There is hereby created the "Oklahoma
2 Department of Commerce Revolving Fund" for the division within the
3 Office of the Lieutenant Governor known as the Oklahoma Department
4 of Commerce. The fund shall consist of all monies, other than
5 appropriated monies, received by the division of the Office of the
6 Lieutenant Governor known as the Oklahoma Department of Commerce
7 which are not directed to be placed into another fund. The fund
8 shall be a continuing fund not subject to fiscal year limitations
9 and shall be subject to the administrative direction of the ~~Oklahoma~~
10 ~~Department of Commerce~~ Office of the Lieutenant Governor.
11 Expenditures from the fund shall be made upon warrants issued by the
12 State Treasurer against claims submitted to the Director of the
13 Office of Management and Enterprise Services. Monies in the fund
14 may be expended for the operating expenses of the Department and
15 shall be made pursuant to the laws of this state.

16 ~~B. On July 1, 1986, any unallotted cash balance in the funds~~
17 ~~created in Sections 678 and 2008 of this title shall be transferred~~
18 ~~to the Oklahoma Department of Commerce Revolving Fund. All~~
19 ~~outstanding financial obligations and encumbrances of the funds~~
20 ~~created in Sections 678 and 2008 of this title are hereby~~
21 ~~transferred to the Oklahoma Department of Commerce. After November~~
22 ~~15, 1986, any unexpended balance in the funds created in Sections~~
23 ~~678 and 2008 of this title shall be transferred to the Oklahoma~~
24 ~~Department of Commerce Revolving Fund.~~

1 SECTION 5. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 5003.3a of Title 74, unless
3 there is created a duplication in numbering, reads as follows:

4 A. There is hereby created within the Oklahoma Department of
5 Commerce the Oklahoma Board of Commerce, hereinafter referred to as
6 the "Board".

7 B. The Board shall consist of six (6) members who shall serve a
8 term of six (6) years. No more than one Board member shall be from
9 any one county. The Lieutenant Governor shall serve as an ex
10 officio voting member of the Commission.

11 C. Two members shall be appointed by the President Pro Tempore
12 of the Senate.

13 D. Two members shall be appointed by the Speaker of the House
14 of Representatives.

15 E. Two members shall be appointed by the Executive Director of
16 the Oklahoma Department of Commerce.

17 F. Whenever a vacancy on the Board occurs by death,
18 resignation, or otherwise, the Lieutenant Governor shall fill the
19 same by appointment, with the advice and consent of the Senate, and
20 the appointee shall hold office during the unexpired term. Each
21 member shall hold office until a successor has been appointed and
22 qualified. Four members of the Board shall constitute a quorum, and
23 the vote of the majority of members present shall be necessary for
24 any action to be taken by the Board. No vacancy in the membership

1 of the Board shall impair the rights of a quorum to exercise and
2 perform all the rights and duties of the Board.

3 G. Each member of the Board, before serving on the Board, shall
4 take and subscribe to the constitutional and statutory oaths of
5 office and file the oaths with the Secretary of State. Members of
6 the Board shall be reimbursed for travel expenses to Board meetings
7 as provided in the State Travel Reimbursement Act of the Oklahoma
8 Statutes.

9 H. The Board shall be organized by the Lieutenant Governor who
10 shall appoint from the Board the Chair, the Vice Chair, and the
11 Secretary. The Board is authorized and directed to adopt rules
12 pursuant to the provisions of the Administrative Procedures Act to
13 execute the powers and duties of the Board and Department.

14 I. The Board may meet monthly and shall meet at least
15 quarterly. The Board may meet at such other times as it deems
16 necessary for effectively performing its duties and
17 responsibilities. Special meetings may be called by the Chair or by
18 any three members of the Board. The meetings of the Board shall be
19 subject to the Oklahoma Open Meeting Act.

20 J. The Board is hereby declared to be a governmental agency and
21 instrumentality of the State of Oklahoma with authority to exercise,
22 in addition to those it now has, the rights, privileges and
23 functions hereinafter specified.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5003.3b of Title 74, unless there is created a duplication in numbering, reads as follows:

There are hereby granted to and imposed in the Board, and in any commission or body which may hereafter succeed to the powers, rights and duties of the Board, the following additional powers, rights and duties:

1. Sue and be sued;

2. Adopt, use and alter an official seal;

3. Make bylaws for the management and regulation of its affairs;

4. Appoint, prescribe the duties and fix the compensation for officers, agents and employees;

5. Make contracts and execute instruments as in the judgment of the Board are necessary or convenient to the exercise of the powers conferred upon it by law; and

6. Promulgate rules and policies necessary and convenient to the exercise of the powers conferred upon it by law.

SECTION 7. This act shall become effective November 1, 2026.

COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated 04/11/2018 - DO PASS, As Amended.