

1 ENGROSSED SENATE
2 BILL NO. 903

By: Leewright of the Senate

3 and

4 Echols of the House

5
6 An Act relating to Oklahoma Tourism Development Act;
7 amending Section 6, Chapter 196, O.S.L. 2017, as
8 amended by Section 4, Chapter 443, O.S.L. 2019 (68
9 O.S. Supp. 2020, Section 2396), which relates to
10 tourism project agreements; modifying the term of
11 certain agreement; increasing term of agreement for
12 certain businesses on certain date; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY Section 6, Chapter 196, O.S.L.
16 2017, as amended by Section 4, Chapter 443, O.S.L. 2019 (68 O.S.
17 Supp. 2020, Section 2396), is amended to read as follows:

18 Section 2396. A. Upon granting final approval, the Executive
19 Director of the Oklahoma Tourism and Recreation Department may enter
20 into an agreement with an approved company with respect to its
21 tourism attraction project. The terms and provisions of each
22 agreement shall include, but shall not be limited to:

23 1. The amount of approved costs, which shall be determined by
24 negotiations between the Executive Director and the approved
company;

1 2. A date certain by which the approved company shall have
2 completed the tourism attraction project or an individual component
3 or phase of the project if the tourism attraction project is an
4 Entertainment District. Within three (3) months of the completion
5 date of the whole or an individual component or phase of the
6 project, the approved company shall document its actual costs of the
7 project through a certification of the costs by an independent
8 certified public accountant acceptable to the Executive Director;
9 and

10 3. The following provisions:

11 a. the term of the agreement shall be ~~ten (10) years~~
12 fifteen (15) years from the later of:

13 (1) the date of the final approval of the tourism
14 attraction project, or

15 (2) the completion date specified in the agreement,
16 if the completion date is within three (3) years
17 of the date of the final approval of the tourism
18 attraction project. However, the term of the
19 agreement may be extended for up to two (2)
20 additional years by the Executive Director, with
21 the advice and consent of the Oklahoma Tax
22 Commission, if the Executive Director determines
23 that the failure to complete the tourism
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1 attraction project within three (3) years
2 resulted from:

3 (a) unanticipated and unavoidable delay in the
4 construction of the tourism attraction
5 project,

6 (b) an original completion date for the tourism
7 attraction project, as originally planned,
8 which will be more than three (3) years from
9 the date construction began, or

10 (c) a change in business structure resulting
11 from a merger or acquisition.

12 Provided, however, the businesses that have existing
13 agreements with the Oklahoma Tourism and Recreation
14 Department under the Tourism Development Act on the
15 effective date of this act shall be allowed to increase the
16 total number of years on their agreements to fifteen (15)
17 years upon approval of the Executive Director,

18 b. in any tax year during which an agreement is in
19 effect, if the amount of sales tax to be remitted by
20 the approved company or an Entertainment District
21 Tenant Party, if applicable, exceeds the sales tax
22 credit available to the approved company or
23 Entertainment District Tenant Party, if applicable,
24 then the approved company or Entertainment District

1 Tenant Party, if applicable, shall pay the excess to
2 this state as sales tax,

3 c. within forty-five (45) days after the end of each
4 calendar year the approved company shall supply the
5 Executive Director with such reports and
6 certifications as the Executive Director may request
7 demonstrating to the satisfaction of the Executive
8 Director that the approved company is in compliance
9 with the provisions of the Oklahoma Tourism
10 Development Act, and

11 d. the approved company or an Entertainment District
12 Tenant Party, if applicable, shall not receive an
13 inducement with respect to any calendar year if:

14 (1) with respect to any tourism attraction project
15 that is not an Entertainment District in any
16 calendar year following the fourth year of the
17 agreement, the tourism attraction project fails
18 to attract at least fifteen percent (15%) of its
19 visitors from among persons who are not residents
20 of this state, or

21 (2) in any calendar year following the first year of
22 the project or the tourism attraction project is
23 not operating and open to the public on a regular
24 and consistent basis, which for a tourism

1 attraction project that is an Entertainment
2 District shall mean that a substantial portion of
3 the Entertainment District is not operating and
4 open to the public on a regular and consistent
5 basis.

6 B. The agreement shall not be transferable or assignable by the
7 approved company without the written consent of the Executive
8 Director but, with respect to a tourism attraction project that is
9 an Entertainment District, the approved company can elect to pass-
10 through all or a portion of the sales tax credit to one or more
11 Entertainment District Tenant Parties in accordance with Section
12 2397 of this title.

13 C. If the approved company utilizes or receives inducements
14 which are subsequently disallowed then the approved company will be
15 liable for the payment to the Tax Commission of an amount equal to
16 (i) all taxes resulting from the disallowance of the inducements
17 plus applicable penalties and interest, whether owed by the approved
18 company or an Entertainment District Tenant Party to which the
19 credits have been passed-through in accordance with Section 2397 of
20 this title, and/or (ii) all incentive payments previously received
21 by the approved company, plus applicable penalties and interest.
22 Only the approved company originally allowed a sales tax credit
23 shall be held liable to make such payments and not any Entertainment
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1 District Tenant Party to whom the credit has been passed-through in
2 accordance with Section 2397 of this title.

3 D. The Executive Director shall provide a copy of each
4 agreement entered into with an approved company to the Tax
5 Commission.

6 E. For a tourism attraction project that is an Entertainment
7 District and anticipated to have multiple components or phases, the
8 Executive Director may enter into more than one agreement with
9 different approved companies for the different components or phases
10 of the Entertainment District and such agreements may be entered
11 into at different times as though the different components or phases
12 of the Entertainment District are their own separate project. In
13 such case, the Executive Director shall not be required to obtain a
14 separate consultant's report (referred to in subsection C of Section
15 2394 of this title) for each individual component or phase of the
16 Entertainment District, but only one consultant's report for the
17 entire Entertainment District.

18 SECTION 2. This act shall become effective November 1, 2021.

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1 Passed the Senate the 9th day of March, 2021.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

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9 Presiding Officer of the House
10 of Representatives