

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 760

By: Kirt

AS INTRODUCED

An Act relating to the Oklahoma Capital Investment Board; amending 74 O.S. 2021, Sections 5085.5, 5085.6, and 5085.15, which relate to the Oklahoma Capital Formation Act; modifying definition; dissolving Board upon certain date; transferring certain contracts and management of certain investments to the Oklahoma Center for the Advancement of Science and Technology; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 5085.5, is amended to read as follows:

Section 5085.5. For purposes of this act:

1. "Board" means the Oklahoma ~~Capital Investment Board~~ Center for the Advancement of Science and Technology;

2. "Director" means any person who is a member of the Board;

3. "Equity capital" means capital invested in common or preferred stock, royalty rights, limited partnership interests, and any other securities or rights that evidence ownership in private businesses;

1       4. "Investor group" means any individual, corporation,  
2 partnership or other lawfully organized entity;

3       5. "Near-equity capital" means capital invested in unsecured,  
4 undersecured, subordinated or convertible loans or debt securities;

5       6. "Persons" means individuals, corporations, partnerships or  
6 other lawfully organized entities;

7       7. "Put option" means a right or privilege to sell an amount of  
8 a particular security or class of securities during a time period  
9 ending on the expiration date of the option; and

10       8. "Tax credits" means tax credits available against  
11 liabilities imposed by Section 2355 of Title 68 of the Oklahoma  
12 Statutes or Section 624 of Title 36 of the Oklahoma Statutes and  
13 issued or transferred pursuant to this act.

14           a. The tax credits issued or transferred pursuant to the  
15 Oklahoma Capital Formation Act, upon election by the  
16 purchaser at utilization, will be treated as a payment  
17 or prepayment in lieu of tax imposed under Section  
18 2355 of Title 68 of the Oklahoma Statutes;

19           b. Tax credits utilized pursuant to subparagraph a of  
20 this paragraph shall be treated and may be claimed as  
21 a payment of tax or estimated tax for the purposes of  
22 and as defined in Sections 2375, 2385.9 and 2385.13 of  
23 Title 68 of the Oklahoma Statutes. Such tax credits  
24 are further subject to the system developed in  
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1           conjunction with the Oklahoma Tax Commission as  
2           required by subsection C of Section 5085.7 of this  
3           title for registration and verification of the tax  
4           credits. Taxpayers may rely upon the provisions of  
5           the registration and verification system developed  
6           pursuant to Section 5085.7 of this title.

7           SECTION 2.        AMENDATORY        74 O.S. 2021, Section 5085.6, is  
8   amended to read as follows:

9           Section 5085.6. A. The Oklahoma Capital Investment Board shall  
10   consist of five (5) Directors who shall be appointed by the Governor  
11   with the advice and consent of the Senate. Directors shall be  
12   selected based upon outstanding knowledge and leadership and shall  
13   possess experience in the management of investments similar in  
14   nature and in value to those of the Board. Directors shall serve  
15   for a term of office of five (5) years. Provided, the initial Board  
16   of Directors of the Oklahoma Capital Investment Board shall consist  
17   of the trustees of the trust certified as the Oklahoma Capital  
18   Investment Board pursuant to the provisions of Section 2 of this act  
19   and the Directors of the Oklahoma Capital Investment Board who were  
20   appointed pursuant to the provisions of Section 5061.6 of Title 74  
21   of the Oklahoma Statutes. Positions on the Board of Directors held  
22   by trustees of such trust shall not be filled as the terms of office  
23   for said trustees expire. Positions on the Board of Directors held  
24   by Directors of the Oklahoma Capital Investment Board shall be

1 filled by the Governor with the advice and consent of the Senate as  
2 the terms of office for said Directors expire and in a manner to  
3 allow one member to rotate off of the Board each year.

4 B. Annually, the Directors shall select a chairman to preside  
5 at their meetings. The Directors shall have the authority to manage  
6 the Oklahoma Capital Investment Board in accordance with the  
7 requirements of this act and its trust indenture.

8 C. The meetings of the Directors shall be subject to the  
9 Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the  
10 Oklahoma Statutes, and the Oklahoma Open Records Act, Section 24A.1  
11 et seq. of Title 51 of the Oklahoma Statutes. Any information  
12 submitted to or compiled by the Oklahoma Capital Investment Board  
13 with respect to the marketing plans, financial statements, trade  
14 secrets, research concepts, methods or products, or any other  
15 proprietary information of persons, firms, associations,  
16 partnerships, agencies, corporations, or other entities shall be  
17 confidential, except to the extent that the person or entity that  
18 provided such information or that is the subject of such information  
19 consents to disclosure. Executive sessions may be held to discuss  
20 such materials if deemed necessary by the Directors.

21 D. A conflict of interest shall be deemed to exist in any  
22 contractual relationship in which a Director of the Board, officer,  
23 agent or employee or any for-profit firm or corporation in which  
24 such Director, officer, agent or employee or any member of his or  
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1 her immediate family is an officer, partner, or principal  
2 stockholder, shall directly or indirectly buy or sell goods or  
3 services to, or otherwise contract with the Board. Upon a showing  
4 thereof, such Director, officer, agent, or employee shall be subject  
5 to removal and such contract shall be deemed unenforceable as  
6 against the Board unless the records of the Board shall reflect that  
7 such Director, officer, agent, or employee fully and publicly  
8 disclosed all such interest or interests, and unless such  
9 contractual relationship shall have been secured by competitive  
10 bidding following a public invitation to bid. If a Director,  
11 officer, agent, or employee holds such an interest, he or she shall  
12 refrain from any further official involvement in regard to such  
13 contract or agreement, from voting on any matter pertaining to such  
14 contract or agreement, and from communicating with other Board  
15 members, officers, agents, or employees concerning said contract or  
16 agreement.

17 E. Bonds issued by the Oklahoma Capital Investment Board shall  
18 be subject to oversight pursuant to the Oklahoma Bond Oversight and  
19 Reform Act, Section 695.1 et seq. of Title 62 of the Oklahoma  
20 Statutes.

21 F. Upon the effective date of this act, the Oklahoma Capital  
22 Investment Board shall be dissolved. Any contracts or agreements  
23 executed by the Board or by any subsidiary or affiliate of the Board  
24 and any investment of funds required by the provisions of a contract

1 executed by the Board or by any subsidiary or affiliate of the Board  
2 shall be transferred to and managed by the Oklahoma Center for the  
3 Advancement of Science and Technology.

4 SECTION 3. AMENDATORY 74 O.S. 2021, Section 5085.15, is  
5 amended to read as follows:

6 Section 5085.15. Within thirty (30) days after the ~~Oklahoma~~  
7 ~~Capital Investment Board~~ Oklahoma Center for the Advancement of  
8 Science and Technology or any subsidiary or affiliate of the ~~Board~~  
9 Center has made payment of any remaining expense or obligation  
10 created by the ~~Board~~ Center or by the subsidiary or affiliate,  
11 pursuant to the terms of any promissory note, loan agreement,  
12 guaranty agreement, investment agreement or other contract or  
13 agreement, any remaining monies paid to either the ~~Board~~ Center or  
14 any subsidiary or affiliate of the ~~Board~~ Center pursuant to the  
15 terms of an agreement or contract entered into prior to the  
16 effective date of this act shall be paid by the Board or by its  
17 subsidiary or affiliate to the General Revenue Fund of the State  
18 Treasury.

19 SECTION 4. This act shall become effective November 1, 2023.  
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