

An Act

ENROLLED SENATE
BILL NO. 300

By: Kirt of the Senate

and

Townley of the House

An Act relating to the Oklahoma Capital Investment Board; amending 74 O.S. 2021, Sections 5085.5, 5085.6, 5085.8, 5085.10, 5085.11, 5085.12, 5085.14, 5085.15, and 5085.16, which relate to the Oklahoma Capital Formation Act; modifying definition; modifying reference; dissolving Board upon certain date; transferring certain contracts and management of certain investments to the Oklahoma Science and Technology Research and Development Board; transferring certain revolving fund to the Oklahoma Center for the Advancement of Science and Technology; making language gender neutral; updating statutory reference; updating statutory language; and providing an effective date.

SUBJECT: Board dissolution and transfer of duties

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~~ the Oklahoma Capital Formation Act:

1. "Board" means the Oklahoma ~~Capital Investment Board~~ Science and Technology Research and Development Board of the Oklahoma 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;

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

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

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

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

8. "Tax credits" means tax credits available against liabilities imposed by Section 2355 of Title 68 of the Oklahoma Statutes or Section 624 of Title 36 of the Oklahoma Statutes and issued or transferred pursuant to ~~this act~~ the Oklahoma Capital Formation Act.

- a. The tax credits issued or transferred pursuant to the Oklahoma Capital Formation Act, upon election by the purchaser at utilization, will be treated as a payment or prepayment in lieu of tax imposed under Section 2355 of Title 68 of the Oklahoma Statutes~~+~~.
- b. Tax credits utilized pursuant to subparagraph a of this paragraph shall be treated and may be claimed as a payment of tax or estimated tax for the purposes of and as ~~defined~~ provided in Sections 2375, 2385.9, and 2385.13 of Title 68 of the Oklahoma Statutes. Such tax credits are further subject to the system

developed in conjunction with the Oklahoma Tax Commission as required by subsection ~~E~~ H of Section 5085.7 of this title for registration and verification of the tax credits. Taxpayers may rely upon the provisions of the registration and verification system developed pursuant to Section 5085.7 of this title.

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

Section 5085.6. A. ~~The~~ Until the effective date of this act, the Oklahoma Capital Investment Board shall consist of five (5) Directors who shall be appointed by the Governor with the advice and consent of the Senate. Directors shall be selected based upon outstanding knowledge and leadership and shall possess experience in the management of investments similar in nature and in value to those of the Board. Directors shall serve for a term of office of five (5) years. Provided, the initial Board of Directors of the Oklahoma Capital Investment Board shall consist of the trustees of the trust certified as the Oklahoma Capital Investment Board pursuant to the provisions of ~~Section 2 of this act~~ Section 5085.2 of this title and the Directors of the Oklahoma Capital Investment Board ~~who were appointed pursuant to the provisions of Section 5061.6 of Title 74 of the Oklahoma Statutes.~~ Positions on the Board of Directors held by trustees of such trust shall not be filled as the terms of office for ~~said~~ the trustees expire. Positions on the Board of Directors held by Directors of the Oklahoma Capital Investment Board shall be filled by the Governor with the advice and consent of the Senate as the terms of office for ~~said~~ the Directors expire and in a manner to allow one member to rotate off of the Board each year.

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

C. The meetings of the Directors shall be subject to the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. Any information

submitted to or compiled by the Oklahoma Capital Investment Board with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of persons, firms, associations, partnerships, agencies, corporations, or other entities shall be confidential, except to the extent that the person or entity that provided such information or that is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Directors.

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

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

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

shall be transferred to and managed by the Oklahoma Center for the Advancement of Science and Technology.

SECTION 3. AMENDATORY 74 O.S. 2021, Section 5085.8, is amended to read as follows:

Section 5085.8. A. Except as otherwise provided by subsections F and G of this section, the Oklahoma ~~Capital Investment~~ Science and Technology Research and Development Board shall have the power to solicit proposals from qualified investor groups for investment of capital in accordance with the requirements of the Oklahoma Capital Formation Act. The Board shall establish criteria for selection of persons, firms, corporations, or other entities deemed qualified to generate capital for investment in a manner which will result in a significant potential to create jobs and to diversify and stabilize the economy of ~~the State of Oklahoma~~ this state. Such criteria shall include the applicant's level of experience, quality of management, investment philosophy and process, historical investment performance, probability of success in fund raising, the amount and timing of fees to be paid, and such other investment criteria as may be commonly used in professional portfolio management as the Board may deem appropriate.

B. Except as otherwise provided by subsections F and G of this section, the Board shall have the power to extend a guarantee in the form of a put option or such other method as selected by the Board. Guarantees may extend to principal plus interest over the term of the guarantee at a rate set by Board resolution from time to time. Guarantees in whatever form negotiated by the Board may be made for any period of time, but no term shall expire prior to January 1, 1992. The Board may charge a reasonable fee for costs and the fair compensation of risk associated with its guarantee. The guarantees extended by the Board shall in no way be an obligation of the state and may be restricted to specific funds or assets of the Board; provided, however, proceeds from the sale of any tax credits shall be sufficient to meet contractual guarantee obligations of the Board. The Board shall have the right to contract freely to protect the interests of ~~the State of Oklahoma~~ this state. The Board shall ensure that at least Two Dollars (\$2.00) will be invested in Oklahoma businesses or projects for every One Dollar (\$1.00) of principal guaranteed by the Board.

C. If the Board purchases any security pursuant to an agreement with an investor group, the Board shall acquire such securities and may invest, manage, transfer, or dispose of such securities in accordance with policies for management of assets adopted by the Board.

D. Except as otherwise provided by subsections F and G of this section, the Board shall have the power to make any contract, execute any document, perform any act, or enter into any financial or other transaction necessary in order to carry out its mission. The Board may employ such persons as may be required for the performance of any function authorized or required by the Oklahoma Capital Formation Act or necessary for the accomplishment of any such function. Such persons shall be selected based upon outstanding knowledge and leadership in the field for which the person performs services for the Board. In selecting such persons, the Board shall hire persons who meet standards applicable to persons responsible for investment of equity and near-equity securities.

E. In carrying out the mission of the Board as authorized in the Oklahoma Capital Formation Act, neither the Board nor its officers, directors, or employees shall be considered to be broker-dealers, agents, investment advisors, or investment adviser representatives under Title 71 of the Oklahoma Statutes. The tax credits issued or transferred pursuant to the Oklahoma Capital Formation Act and Section 2357.7 of Title 68 of the Oklahoma Statutes shall not be considered to be securities under Title 71 of the Oklahoma Statutes.

F. On and after ~~the effective date of this act~~ June 8, 2012, except for the investment of funds required by provisions in a contract executed by the Board or by any subsidiary or affiliate of the Board prior to ~~the effective date of this act~~ June 8, 2012, or executed by an entity that was not a subsidiary or affiliate of the Board at the time such contract was executed but which became a subsidiary or affiliate of the Board subsequent to the execution of such contract, but prior to ~~the effective date of this act~~ June 8, 2012, neither the Board nor any entity which is a subsidiary or affiliate of the Board nor any entity which is controlled either directly or indirectly by the Board or which acts under the authority of or pursuant to the direction of the Board shall:

1. Enter into any contract authorizing or requiring the investment of any funds obtained by the Board, or commitment binding the Board to make any investment of any funds obtained by the Board, or the investment of any funds obtained by a subsidiary, affiliate, or any entity under the direct or indirect control of the Board, in any corporation, general partnership, limited partnership, limited liability company, private equity or hedge fund, or other lawfully recognized business entity; or

2. Modify any agreement executed prior to ~~the effective date of this act~~ June 8, 2012, by the Board or executed by any subsidiary or affiliate of the Board or executed by any entity that was not a subsidiary or affiliate of the Board at the time such contract was executed, but which subsequently became a subsidiary or affiliate, in any manner that would have the effect of increasing the amount of any contractual commitment to make an investment of funds in a general or limited partnership, corporation, limited liability company, private equity or hedge fund, or any other lawfully recognized entity.

G. On and after ~~the effective date of this act~~ June 8, 2012, except for the use of funds required by provisions in a contract executed by the Board or by any subsidiary or affiliate of the Board prior to ~~the effective date of this act~~ June 8, 2012, or executed by an entity that was not a subsidiary or affiliate of the Board at the time such contract was executed but which became a subsidiary or affiliate of the Board subsequent to the execution of such contract, but prior to ~~the effective date of this act~~ June 8, 2012, neither the Board nor any entity which is a subsidiary or affiliate of the Board nor any entity which is controlled either directly or indirectly by the Board or which acts under the authority of or pursuant to the direction of the Board shall:

1. Enter into any contract for the purpose of guaranteeing, in whole or in part, the repayment of obligations owed by a business entity, other than a subsidiary of the Board, in connection with a loan of money from a bank, financial institution, or any other entity; or

2. Modify any contract described by paragraph 1 of this subsection executed prior to ~~the effective date of this act~~ June 8,

2012, by the Board or executed by any subsidiary or affiliate of the Board or executed by any entity that was not a subsidiary or affiliate of the Board at the time such contract was executed, but which subsequently became a subsidiary or affiliate, in a manner that would increase any existing obligation of the Board or its subsidiary or affiliate or extend the term of any such contract.

SECTION 4. AMENDATORY 74 O.S. 2021, Section 5085.10, is amended to read as follows:

Section 5085.10. Notwithstanding other provisions of law, the Oklahoma Science and Technology Research and Development Board or any entity designated by the Board, shall have the authority to expend funds to administer and operate the programs of the ~~Oklahoma Capital Investment Board~~.

SECTION 5. AMENDATORY 74 O.S. 2021, Section 5085.11, is amended to read as follows:

Section 5085.11. A. There is hereby created in the State Treasury a revolving fund for the ~~Oklahoma Department of Commerce~~ Oklahoma Center for the Advancement of Science and Technology to be designated the "Oklahoma Capital Formation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriated funds. All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and, as authorized by the ~~Oklahoma Capital Investment~~ Science and Technology Research and Development Board, shall be expended by the ~~Oklahoma Department of Commerce~~ Oklahoma Center for the Advancement of Science and Technology to perform the duties imposed upon the ~~Oklahoma Capital Investment~~ Board by law. Expenditures of appropriated funds from ~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. On ~~the effective date of this act~~ July 1, 1991, any unencumbered funds remaining in the Oklahoma Capital Investment Board Revolving Fund shall be transferred to the credit of the Oklahoma Capital Formation Revolving Fund. Any unexpended funds remaining in the Oklahoma Capital Investment Board Revolving Fund

after November 15, 1991, shall be transferred to the credit of the Oklahoma Capital Formation Revolving Fund.

SECTION 6. AMENDATORY 74 O.S. 2021, Section 5085.12, is amended to read as follows:

Section 5085.12. Nothing contained herein is or shall be construed as a restriction or limitation upon any powers which the Oklahoma ~~Capital Investment~~ Science and Technology Research and Development Board might otherwise have under any other law of this state heretofore or hereafter enacted and the provisions of ~~this act~~ the Oklahoma Capital Formation Act are cumulative to such powers. The provisions hereof do and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized and shall be regarded as supplemental and additional to powers conferred by any other laws.

SECTION 7. AMENDATORY 74 O.S. 2021, Section 5085.14, is amended to read as follows:

Section 5085.14. A. The Oklahoma ~~Capital Investment~~ Science and Technology Research and Development Board may adopt rules, policies, procedures, and regulatory and administrative measures necessary to administer the programs of the Board or convenient for the organization and internal management of Board responsibilities.

B. The level, timing, or degree of success of the ~~Oklahoma Capital Investment~~ Board in mobilizing or ensuring investment in Oklahoma businesses or projects, accomplishing other economic development objectives, or achieving any other statutory duty shall not compromise, diminish, invalidate, or affect the enforceability of any guarantee of the Board.

SECTION 8. AMENDATORY 74 O.S. 2021, Section 5085.15, is amended to read as follows:

Section 5085.15. Within thirty (30) days after the Oklahoma ~~Capital Investment~~ Science and Technology Research and Development Board or any subsidiary or affiliate of the Board has made payment of any remaining expense or obligation created by the Board or by the subsidiary or affiliate, pursuant to the terms of any promissory note, loan agreement, guaranty agreement, investment agreement, or

other contract or agreement, any remaining monies paid to either the Board or any subsidiary or affiliate of the Board pursuant to the terms of an agreement or contract entered into prior to ~~the effective date of this act~~ June 8, 2012, shall be paid by the Board or by its subsidiary or affiliate to the General Revenue Fund of the State Treasury.

SECTION 9. AMENDATORY 74 O.S. 2021, Section 5085.16, is amended to read as follows:

Section 5085.16. None of the provisions of ~~this act~~ the Oklahoma Capital Formation Act shall alter, amend, modify, affect, diminish, or impair the enforceability of, or any obligation or liability of the ~~Oklahoma Capital Investment~~ Science and Technology Research and Development Board or any entity which is a subsidiary or affiliate of the ~~Oklahoma Capital Investment~~ Board or any entity which is controlled either directly or indirectly by the ~~Oklahoma Capital Investment~~ Board under any contract, agreement, guarantee, or instrument entered into or delivered by such party with any business entity or bank, financial institution, or any other entity existing as of ~~the effective date of this act~~ June 8, 2012, including, without limitation, any guarantee extended by the ~~Oklahoma Capital Investment~~ Board and any assignment of any third-party commitments to purchase, and proceeds released from the sale of, tax credits, all of which shall remain in full force and effect.

SECTION 10. This act shall become effective November 1, 2025.

Passed the Senate the 10th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the 1st day of May, 2025.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____