

ENROLLED SENATE
BILL NO. 643

BY: WILLIAMS (Don), KERR,
CAPPS, HANEY and HELTON of
the SENATE

and

McCORKELL of the HOUSE

AN ACT RELATING TO THE OKLAHOMA DEPARTMENT OF
COMMERCE; AMENDING 74 O.S. 1991, SECTION 85.12, AS
AMENDED BY SECTION 3 OF ENROLLED SENATE BILL NO.
646 OF THE 2ND SESSION OF THE 43RD OKLAHOMA
LEGISLATURE, WHICH RELATES TO THE OKLAHOMA CENTRAL
PURCHASING ACT; EXEMPTING CERTAIN CONTRACTS ENTERED
INTO BY OKLAHOMA DEPARTMENT OF COMMERCE FROM ACT;
PROVIDING SHORT TITLE; DEFINING TERMS; REQUIRING
DEPARTMENT ESTABLISH PRODUCT DEVELOPMENT PROGRAM;
STATING PURPOSES OF PROGRAM; GRANTING CERTAIN
POWERS TO DEPARTMENT; PROVIDING FOR AGREEMENT TO
RECEIVE CERTAIN FEE; CREATING REVOLVING FUND;
REQUIRING ANNUAL REPORT; REPEALING 74 O.S. 1991,
SECTION 85.12, AS AMENDED BY SECTION 1 OF ENROLLED
HOUSE BILL NO. 2145 OF THE 2ND SESSION OF THE 43RD
OKLAHOMA LEGISLATURE, WHICH IS A DUPLICATE SECTION
RELATING TO THE OKLAHOMA CENTRAL PURCHASING ACT;
PROVIDING FOR CODIFICATION; AND DECLARING AN
EMERGENCY.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 85.12, as
amended by Section 3 of Enrolled Senate Bill No. 646 of the 2nd
Session of the 43rd Oklahoma Legislature, is amended to read as
follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except such as may be directly in conflict herewith; and all claims, warrants and bonds shall be examined, inspected and approved as now provided by law.

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title:

1. Food and other products produced by state institutions and agencies;

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by state educational institutions included within The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees;

4. Acquisitions by The Oklahoma State System of Higher Education on any institution or entity comprising the same insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials and specialized laboratory equipment;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Purchases of products by Oklahoma Medical Center. The Commission for Human Services shall develop standards for the purchase of products and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and include appropriate safeguards to assure appropriate competition and economical and efficient purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Grand River Dam Authority;

13. Purchases by rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority, except that the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall remain subject to the provisions of Section 85.32 of this title;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when it is determined by its Board of Directors that an

emergency exists and for the services of legal counsel when approved by the Attorney General;

16. Contracts entered into by the State Department of Education for the purpose of implementing the provisions of Section 6-156 of Title 70 of the Oklahoma Statutes;

17. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

18. Contracts entered into by the State Department of Vocational and Technical Education for the development, revision or updating of vocational curriculum materials;

19. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

20. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5009.1 et seq. of this title and Section 5 of this act;

21. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

22. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current state contract and the terms of such contract are more favorable to the agency than the terms of a state contract for the same products as determined by the State Purchasing Director;

23. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such federal contract are more favorable to the agency than the terms of a state contract for the same products; and

24. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.7 of this title. The Director of Public Affairs shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars (\$750.00) and not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) to ensure competitiveness and fairness in such purchases.

C. Notwithstanding the exclusions provided herein, any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the Purchasing Director. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Further, notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Office of Public Affairs, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority to assure that said purchasing policies and procedures, as approved by him, are being followed.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5066.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Product Development Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5066.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Commercial stage" means the point at which the product has advanced beyond the theoretical and prototype stage and is capable of being manufactured or reduced to practice commercially;
2. "Intellectual property" means a patent, patent pending, trademark, copyright or trade secret;
3. "Licensor" means the person who owns the intellectual property rights of a product;
4. "Licensee" means the person to whom the intellectual properties related to a product have been licensed or assigned;
5. "Person" means any individual, sole proprietor, partnership or corporation;
6. "Product" means any device, technique or process;
7. "Royalties" means all things of value received by a licensor in connection with the licensing, rental or sale of a product patented, patent pending, copyrighted or trademarked pursuant to federal law; and
8. "Strategic alliances" means a business agreement such as licensing, joint venture partnership, etc., between two or more persons.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5066.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Commerce shall establish a program to provide product development assistance to Oklahoma manufacturing and marketing businesses. The program shall:

1. Identify, characterize and catalogue Oklahoma businesses interested in and committed to expansion by commercialization of new products utilizing their available capital, knowledge and human assets;
2. Identify new product opportunities on a worldwide basis that match the current or expanding manufacturing and marketing base of Oklahoma businesses;
3. Provide assistance to make new products available to Oklahoma businesses, which shall include assistance in forming strategic alliances, market and product analysis, business counseling and other assistance necessary to develop the products to the commercial stage; and
4. Facilitate the formation of a product development investment fund.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5066.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Commerce shall have the authority to:

1. Enter into contracts with public and private agencies, institutions, organizations and individuals for the purpose of providing assistance to and services for Oklahoma manufacturing and marketing firms as required by this act. Such contracts shall be exempt from the provisions of Section 85.1 et seq. of Title 74 of the Oklahoma Statutes;
2. Solicit the support and contributions of public and private agencies, organizations, institutions and individuals;
3. Receive and administer funds for the purpose of operating the product development program;
4. Advertise and promote the product development program; and
5. Promulgate rules and regulations to implement the provisions of this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5066.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Commerce may enter into an agreement with a potential licensor to receive a fee not to exceed an amount equal to twenty percent (20%) of all royalties from any product commercialized under the product development program for the life of the license.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5066.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a separate revolving fund for the Oklahoma Department of Commerce to be designated as the "Product Development Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Department for implementation of the Product Development Act from all funds appropriated thereto by the Oklahoma State Legislature, all fees received pursuant to this act, any federal funds, gifts, private and matching funds and all contributions dedicated thereto from any source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purposes of this act. Any amount in said fund not directly needed to implement the provisions of this act shall go to the General Revenue Fund of the state. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5066.7 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Director of the Oklahoma Department of Commerce shall submit an annual report on or before December 31 of each year to the Governor and the Oklahoma State Legislature which shall include but not be limited to:

1. The number of products and description thereof of products developed to the commercial stage; and
2. The total fees collected and donations received.

SECTION 9. REPEALER 74 O.S. 1991, Section 85.12, as amended by Section 1 of Enrolled House Bill No. 2145 of the 2nd Session of the 43rd Oklahoma Legislature, is hereby repealed.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.