

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2357

By: Newport

AS INTRODUCED

An Act relating to tourism; creating the Oklahoma Tourism Development Act; defining terms; providing for certain evaluation standards; specifying eligibility and providing procedures related thereto; providing standards for preliminary and final approval of companies and projects; providing for a tourism attraction project income tax credit; specifying eligibility and conditions; providing for certain disqualification; providing special rules for certain lodging facilities; providing for codification; providing an effective date; and declaring an emergency.

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 2020 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 "Oklahoma Tourism Development Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2021 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in this act unless the context clearly indicates otherwise:

1. "Agreement" means an agreement entered into pursuant to this act, by and between the Director of the Oklahoma Tourism and Recreation Department and an approved company, with respect to a tourism attraction project;

2. "Approved company" means any eligible company that is seeking to undertake a tourism attraction project and is approved by the Director pursuant to this act;

3. "Approved costs" mean:

- a. obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, delivery men, and material men in connection with the acquisition, construction, equipping, and installation of a tourism attraction project,
- b. the costs of acquiring real property or rights in real property in connection with a tourism attraction project, and any costs incidental thereto,
- c. the cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor or otherwise provided,
- d. all costs of architectural and engineering services, including, but not limited to, estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping and installation of a tourism attraction project,
- e. all costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project,
- f. all costs required for the installation of utilities in connection with a tourism attraction project, including, but not limited to, water, sewer, sewage

treatment, gas, electricity, and communications, and including off-site construction of utility extensions paid for by the approved company, and

- g. all other costs comparable with those described in this act;

4. "Director" means the Director of the Oklahoma Tourism and Recreation Department or the designated representative of the Director;

5. "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, or business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the state that meets the standards promulgated by the Director;

6. "Final approval" means the action taken by the Director authorizing the eligible company to receive inducements under this act;

7. "Inducements" means the Oklahoma income tax credit;

8. "New full-time permanent employee" means a position or job which was created as a result of a tourism attraction project, and which is filled by one (1) or more employees or contractual employees who were Oklahoma taxpayers during the year in which the tax credits or incentives were earned or claimed. The position or job held by such employee or employees must have been filled for at least twenty-six (26) consecutive weeks, with an average of at least thirty (30) hours per week. Provided, however, in order to qualify for the provisions of this act, a contractual employee must be offered a benefit package comparable to a direct employee of the business seeking incentives under this act;

9. "Tourism attraction" means:

- a. cultural or historical site,
- b. a recreational or entertainment facility,

- c. an area of natural phenomenon or scenic beauty,
- d. a theme park,
- e. an amusement or entertainment park,
- f. an indoor or outdoor play or music show,
- g. botanical gardens, or
- h. cultural or educational centers;

10. A tourism attraction shall not include:

- a. lodging facilities, unless the facilities constitute a portion of a tourism attraction project and represent less than sixty percent (60%) of the total approved costs of the tourism attraction project, or unless the project meets the special rules of this act,
- b. facilities that are primarily devoted to the retail sale of goods, unless the goods are created at the site of the tourism attraction project or if the sale of goods is incidental to the tourism attraction project,
- c. facilities that are not open to the general public,
- d. facilities that do not serve as a likely destination where individuals who are not residents of the state would remain overnight in commercial lodging at or near the tourism attraction project, or
- e. facilities owned by the State of Oklahoma or a political subdivision of the state; and

11. "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including, but not limited to, surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity,

communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2022 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Director of the Oklahoma Tourism and Recreation Department shall establish standards for the making of applications for inducements to eligible companies and their tourism attraction projects by the promulgation of administrative rules.

B. With respect to each eligible company making an application to the Director for inducements, and with respect to the tourism attraction project described in the application, the Director shall make inquiries and request materials of the applicant that shall include, but shall not be limited to, marketing plans for the project that target individuals who are not residents of the state; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed Five Hundred Thousand Dollars (\$500,000.00) and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. The department shall analyze the data made available by the eligible company and collect and analyze additional information as necessary to determine that the tourism attraction project:

1. Shall develop a marketing plan that targets at least twenty-five percent (25%) of its visitors from among persons who are not residents of this state;

2. Shall have costs in excess of Five Hundred Thousand Dollars (\$500,000.00);

3. Shall have a significant and positive economic impact on the state considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in this state, and the amount by which increased tax revenues from the tourism attraction project will exceed the tax credit allowed pursuant to this act;

4. Shall produce sufficient revenues and public demand to be operating and open to the public on a regular and persistent basis; and

5. Shall not adversely affect existing employment in this state.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2024 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Director of the Oklahoma Tourism and Recreation Department shall establish standards for final approval of eligible companies and their projects by the promulgation of administrative rules.

B. The Director may give approval by designating an eligible company as an approved company and authorizing the undertaking of the tourism attraction project.

C. The Director shall review information that has been made available to the Director in order to determine whether the tourism attraction project will further the purposes of this act.

D. The criteria for final approval of eligible companies and tourism attraction projects shall include, but shall not be limited to, the criteria set forth in this act.

E. After a review of the relevant materials and other information made available to the Director, and completion of other inquiries, the Director may give final approval to the application

of the eligible company for a tourism attraction project and may grant to the eligible company the status of an approved company.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2025 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Upon notification from the Director that an approved company has entered into a tourism attraction project agreement and is entitled to the income tax credit provided by this section, the Tax Commission shall provide the approved company with such forms and instructions as are necessary to claim those credits.

B. The Tax Commission shall authorize an income tax credit equal to one hundred (100) times the average hourly wage paid, with a maximum of Three Thousand Dollars (\$3,000.00) per net new full-time permanent employee of an approved tourism attraction project qualifying for benefits under this act.

C. The income tax credit allowed under this section shall increase by a factor of four (4) with a maximum credit of Six Thousand Dollars (\$6,000.00) if the business is located in a county that had an unemployment rate equal to or in excess of one hundred and fifty percent (150%) of the average unemployment rate of the state for the preceding calendar year as specified by statewide annual labor force statistics compiled by the Oklahoma Employment Security Commission.

D. To be counted as a new full-time permanent employee for the purpose of qualifying for the tax credits provided by this section, the employee in the position or job must have been an Oklahoma taxpayer during the year in which the tax credits were earned.

E. In the event it is found that any approved company receiving the benefits contained in this section has failed to comply with the conditions contained in this act, that company shall be disqualified from receiving any further benefits under this act and shall be liable for payment of such additional income taxes as may be due

after the income tax credits provided for in this section are disallowed, plus interest.

F. If the Tax Commission determines that an approved company is no longer qualified to participate in this act, it shall decertify the company. Any company so decertified shall not receive any benefits under this act.

G. For projects receiving final approval after July 1, 2000, the credit may be applied against the income tax for the succeeding nine (9) years or until the credit is entirely used, whichever occurs first.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2026 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A lodging facility may qualify as a tourism attraction project, entitled to the benefits of the Oklahoma Tourism Development Act even though the lodging costs represent one hundred percent (100%) of the total project costs, provided the approved costs for the lodging facility exceed Five Million Dollars (\$5,000,000.00), and:

1. The lodging facility is attached to a convention center containing a minimum of seventy-five thousand (75,000) square feet; or

2. The lodging facility contains a minimum of twelve thousand (12,000) square feet of meeting or exhibit space.

SECTION 7. This act shall become effective July 1, 2000.

SECTION 8. 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.

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