

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1400

By: Pugh

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5  
6 AS INTRODUCED

7 An Act relating to state government; consolidating  
8 the Oklahoma Department of Commerce and the Office of  
9 the Lieutenant Governor; transferring certain duties  
10 and responsibilities, personnel, funds, records,  
11 encumbrances, equipment and other items; providing  
12 requirements pertaining to the transfer of employees;  
13 amending 74 O.S. 2011, Section 5003.2, which relates  
14 to the Oklahoma Department of Commerce, modifying the  
15 Oklahoma Department of Commerce to a division of the  
16 Office of the Lieutenant Governor; stating that  
17 existing rules shall remain in effect; amending 74  
18 O.S. 2011, Section 5003.5, which relates to the  
19 Oklahoma Department of Commerce; specifying that the  
20 Director shall be appointed by the Lieutenant  
21 Governor and with the advice and consent of the  
22 Senate; amending 74 O.S. 2011, Section 5012, as  
23 amended by Section 1027, Chapter 304, O.S.L. 2012 (74  
24 O.S. Supp. 2017, Section 5012), which relates to the  
Oklahoma Department of Commerce Revolving Fund;  
modifying entity authorized for the administration of  
certain revolving funds; creating within the Oklahoma  
Department of Commerce the Oklahoma Board of  
Commerce; providing appointing authority;  
establishing membership requirements; establishing  
rights and duties of the board; providing for  
codification; and providing an effective date.

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

1           SECTION 1.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5003.1a of Title 74, unless  
3 there is created a duplication in numbering, reads as follows:

4           A. Upon the effective date of this act, the Oklahoma Department  
5 of Commerce is hereby consolidated with the Office of the Lieutenant  
6 Governor.

7           B. All assets, funds, liabilities, allotments, purchase orders,  
8 outstanding financial obligations, encumbrances, records, vehicles,  
9 equipment and other property of the Oklahoma Department of Commerce  
10 shall be transferred to the Office of the Lieutenant Governor.

11           C. Personnel employed by the Oklahoma Department of Commerce on  
12 the effective date of this act, shall be transferred to the Office  
13 of the Lieutenant Governor.

14           D. The classified and unclassified employees who are  
15 transferred pursuant to this section shall be subject to the  
16 following provisions:

17           1. Classified employees shall remain subject to the provisions  
18 of the Merit Protection System of Personnel Administration, as  
19 provided in the Oklahoma Personnel Act;

20           2. Unclassified employees transferred to the Office of the  
21 Oklahoma Secretary of State shall remain in the unclassified service  
22 and shall serve at the pleasure of the Lieutenant Governor;

23           3. All employees who are transferred pursuant to this act shall  
24 retain leave, sick and annual time earned and any retirement and

1 longevity benefits which have accrued during their employment with  
2 the state. The salaries of employees who are transferred shall not  
3 be reduced as a direct and immediate result of the transfer;

4 4. If the Office of the Lieutenant Governor should implement a  
5 reduction in force, all employees transferred pursuant to this act  
6 shall be credited for the time they were employed by the Oklahoma  
7 Department of Commerce; and

8 5. The transfer of employees shall be coordinated with the  
9 Office of the Lieutenant Governor.

10 SECTION 2. AMENDATORY 74 O.S. 2011, Section 5003.2, is  
11 amended to read as follows:

12 Section 5003.2. A. Recognizing the geographic diversity of  
13 this state, Oklahoma needs one central, primary public-sector  
14 economic development agency for the state in order to manage or  
15 coordinate all public sector economic development activity.

16 Oklahoma needs an agency to work at the community and firm level  
17 to:

18 1. Create new and higher quality jobs for the people of this  
19 state through the expansion, creation, restructuring and recruitment  
20 of export-oriented Oklahoma firms which produce value-added goods,  
21 services and processes;

22 2. Encourage statewide economic diversification and stability;

23 3. Maintain a two-way flow of information between the central  
24 state economic development agency and firms, farms and communities;

1 4. Implement the strategic economic development five-year plan;  
2 and

3 5. Carry out policy development and research in support of  
4 Oklahoma Futures.

5 B. The Oklahoma Department of Commerce is hereby ~~constituted an~~  
6 ~~agency of state government~~ a division of the Office of the  
7 Lieutenant Governor.

8 C. Whenever the terms "Department of Economic Development" or  
9 "Department of Economic and Community Affairs" appear in the  
10 Oklahoma Statutes they shall mean and refer to the Oklahoma  
11 Department of Commerce.

12 D. Rules promulgated prior to the effective date of this act by  
13 the Oklahoma Department of Commerce shall remain in full force and  
14 effect.

15 SECTION 3. AMENDATORY 74 O.S. 2011, Section 5003.5, is  
16 amended to read as follows:

17 Section 5003.5. A. The Director of the Department of Commerce  
18 shall be appointed by the Lieutenant Governor with the advice and  
19 consent of the Senate. The Director shall serve at the pleasure of  
20 the ~~Governor~~ the Lieutenant Governor, and shall continue to serve  
21 until a successor is duly appointed and qualified, and shall report  
22 to the Lieutenant Governor. The salary of the Director shall be set  
23 by law.  
24

1 B. The Director shall be qualified for such position by  
2 character, personality, ability, education, training and successful  
3 administrative experience in the public or private sector.

4 C. The Director shall employ such persons as are necessary to  
5 implement the powers and duties of the Department. Because many of  
6 the powers and duties of the Department involve working closely with  
7 the private sector, certain employee positions of the Department  
8 must be governed, classified and compensated in a manner that  
9 compares equally to similar positions in the private sector.

10 Therefore, in the annual business plan, the Director shall list,  
11 describe and justify all such positions and their compensation and  
12 shall designate and place them in unclassified status, exempt from  
13 the provisions of the Oklahoma Personnel Act. All other employees  
14 and positions shall be classified and subject to the provisions of  
15 the Merit System of Personnel Administration as provided in the  
16 Oklahoma Personnel Act. Provided, nothing in this section shall be  
17 construed to limit the authority of the Legislature to specify the  
18 status of positions otherwise by law. Neither shall the Director  
19 have the authority to circumvent, disregard or otherwise disobey  
20 specific provisions of law regarding positions in the Department.

21 D. The Director shall serve on the board of:

22 1. The Oklahoma Industrial Finance Authority;

23 2. The Oklahoma Science and Technology Research and Development  
24 Board;

1 3. The Oklahoma Development Finance Authority;

2 4. The Executive Bond Oversight Commission; and

3 5. The Oklahoma Ordnance Works Authority.

4 E. The Director may serve as administrator of any interlocal  
5 agreement or compact to pursue economic development and to assign  
6 any employees of the Department or employee personnel to carry out  
7 duties or obligations pursuant to any interlocal agreement or  
8 compact for economic development.

9 F. The Director, at his or her discretion, may approve payment  
10 for affiliations or memberships of the Department or, if necessary,  
11 associate memberships for individual employees in international,  
12 national, or state economic development councils, professional  
13 organizations, or governmental associations.

14 SECTION 4. AMENDATORY 74 O.S. 2011, Section 5012, as  
15 amended by Section 1027, Chapter 304, O.S.L. 2012 (74 O.S. Supp.  
16 2017, Section 5012), is amended to read as follows:

17 Section 5012. ~~A.~~ There is hereby created the "Oklahoma  
18 Department of Commerce Revolving Fund" for the division within the  
19 Office of the Lieutenant Governor known as the Oklahoma Department  
20 of Commerce. The fund shall consist of all monies, other than  
21 appropriated monies, received by the division of the Office of the  
22 Lieutenant Governor known as the Oklahoma Department of Commerce  
23 which are not directed to be placed into another fund. The fund  
24 shall be a continuing fund not subject to fiscal year limitations

1 and shall be subject to the administrative direction of the ~~Oklahoma~~  
2 ~~Department of Commerce~~ Office of the Lieutenant Governor.

3 Expenditures from the fund shall be made upon warrants issued by the  
4 State Treasurer against claims submitted to the Director of the  
5 Office of Management and Enterprise Services. Monies in the fund  
6 may be expended for the operating expenses of the Department and  
7 shall be made pursuant to the laws of this state.

8 ~~B. On July 1, 1986, any unallotted cash balance in the funds~~  
9 ~~created in Sections 678 and 2008 of this title shall be transferred~~  
10 ~~to the Oklahoma Department of Commerce Revolving Fund. All~~  
11 ~~outstanding financial obligations and encumbrances of the funds~~  
12 ~~created in Sections 678 and 2008 of this title are hereby~~  
13 ~~transferred to the Oklahoma Department of Commerce. After November~~  
14 ~~15, 1986, any unexpended balance in the funds created in Sections~~  
15 ~~678 and 2008 of this title shall be transferred to the Oklahoma~~  
16 ~~Department of Commerce Revolving Fund.~~

17 SECTION 5. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 5003.3a of Title 74, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. There is hereby created within the Oklahoma Department of  
21 Commerce the Oklahoma Board of Commerce, hereinafter referred to as  
22 the "Board".

23 B. The Board shall consist of six (6) members who shall serve a  
24 term of six (6) years. No more than one Board member shall be from

1 any one county. The Lieutenant Governor shall serve as an ex  
2 officio voting member of the Commission.

3 C. Two members shall be appointed by the President Pro Tempore  
4 of the Senate.

5 D. Two members shall be appointed by the Speaker of the House  
6 of Representatives.

7 E. Two members shall be appointed by the Executive Director of  
8 the Oklahoma Department of Commerce.

9 F. Whenever a vacancy on the Board occurs by death,  
10 resignation, or otherwise, the Lieutenant Governor shall fill the  
11 same by appointment, with the advice and consent of the Senate, and  
12 the appointee shall hold office during the unexpired term. Each  
13 member shall hold office until a successor has been appointed and  
14 qualified. Four members of the Board shall constitute a quorum, and  
15 the vote of the majority of members present shall be necessary for  
16 any action to be taken by the Board. No vacancy in the membership  
17 of the Board shall impair the rights of a quorum to exercise and  
18 perform all the rights and duties of the Board.

19 G. Each member of the Board, before serving on the Board, shall  
20 take and subscribe to the constitutional and statutory oaths of  
21 office and file the oaths with the Secretary of State. Members of  
22 the Board shall be reimbursed for travel expenses to Board meetings  
23 as provided in the State Travel Reimbursement Act of the Oklahoma  
24 Statutes.

1 H. The Board shall be organized by the Lieutenant Governor who  
2 shall appoint from the Board the Chair, the Vice Chair, and the  
3 Secretary. The Board is authorized and directed to adopt rules  
4 pursuant to the provisions of the Administrative Procedures Act to  
5 execute the powers and duties of the Board and Department.

6 I. The Board may meet monthly and shall meet at least  
7 quarterly. The Board may meet at such other times as it deems  
8 necessary for effectively performing its duties and  
9 responsibilities. Special meetings may be called by the Chair or by  
10 any three members of the Board. The meetings of the Board shall be  
11 subject to the Oklahoma Open Meeting Act.

12 J. The Board is hereby declared to be a governmental agency and  
13 instrumentality of the State of Oklahoma with authority to exercise,  
14 in addition to those it now has, the rights, privileges and  
15 functions hereinafter specified.

16 SECTION 6. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5003.3b of Title 74, unless  
18 there is created a duplication in numbering, reads as follows:

19 There are hereby granted to and imposed in the Board, and in any  
20 commission or body which may hereafter succeed to the powers, rights  
21 and duties of the Board, the following additional powers, rights and  
22 duties:

- 23 1. Sue and be sued;
- 24 2. Adopt, use and alter an official seal;

1        3. Make bylaws for the management and regulation of its  
2 affairs;

3        4. Appoint, prescribe the duties and fix the compensation for  
4 officers, agents and employees;

5        5. Make contracts and execute instruments as in the judgment of  
6 the Board are necessary or convenient to the exercise of the powers  
7 conferred upon it by law; and

8        6. Promulgate rules and policies necessary and convenient to  
9 the exercise of the powers conferred upon it by law.

10       SECTION 7. This act shall become effective November 1, 2018.

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