

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 718

By: Daniels

AS INTRODUCED

An Act relating to the Oklahoma Capital Investment Board; amending 68 O.S. 2021, Section 2357.7, which relates to credit against tax for investments in qualified venture capital companies; updating statutory language; amending 74 O.S. 2021, Sections 85.42 and 3601.1, as last amended by Section 36, Chapter 29, O.S.L. 2023 (74 O.S. Supp. 2024, Section 3601.1), which relate to the Oklahoma Central Purchasing Act and the State Employment Review Board; conforming language; updating statutory language; updating statutory reference; repealing 74 O.S. 2021, Sections 5085.1 through 5085.16, which relate to the Oklahoma Capital Investment Board; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.7, is amended to read as follows:

Section 2357.7. A. For taxable years beginning after December 31, 1986, and before January 1, 2009, there shall be allowed a credit against the tax imposed by Section 2355 of this title or Section 624 of Title 36 of the Oklahoma Statutes for investments in qualified venture capital companies whose purpose is to establish or expand the development of business and industry within Oklahoma.

1 Provided, tax credits against liabilities imposed pursuant to
2 Section 624 of Title 36 of the Oklahoma Statutes shall be limited to
3 the amount that would otherwise be collected and allocated to the
4 General Revenue Fund of the State Treasury.

5 B. For purposes of this section:

6 1. "Qualified venture capital company" means a C corporation,
7 as defined by the Internal Revenue Code of 1986, as amended,
8 incorporated pursuant to the laws of Oklahoma or a registered
9 business partnership with a certificate of partnership filed as
10 required by law if such corporation or partnership is organized to
11 provide the direct investment of debt and equity funds to companies
12 within this state, with its principal place of business located
13 within this state and which meets the following criteria:

14 a. capitalization of not less than Five Million Dollars
15 (\$5,000,000.00),

16 b. having a purpose and objective of investing at least
17 seventy-five percent (75%) of its capitalization in
18 Oklahoma business ventures. The temporary investment
19 of funds by a qualified venture capital company in
20 obligations of the United States, state and municipal
21 bonds, bank certificates of deposit, or money market
22 securities pending investment in Oklahoma business
23 ventures is hereby authorized, and

1 c. investment of not more than ten percent (10%) of its
2 funds in any one company;

3 2. "Oklahoma business venture" means a business, incorporated
4 or unincorporated, which:

5 a. has or will have, within one hundred eighty (180) days
6 after an investment is made by a qualified venture
7 capital company, at least fifty percent (50%) of its
8 employees or assets located in Oklahoma,

9 b. needs financial assistance in order to commence or
10 expand such business which provides or intends to
11 provide goods or services,

12 c. is not engaged in oil and gas exploration, real estate
13 development, real estate sales, retail sales of food
14 or clothing, farming, ranching, banking, or lending or
15 investing funds in other businesses. Provided,
16 however, businesses which provide or intend to provide
17 goods or services, including, but not limited to,
18 goods or services involving new technology, equipment,
19 or techniques to such businesses listed in this
20 subparagraph, and investments in the development of
21 tourism facilities in the form of amusement parks,
22 entertainment parks, theme parks, golf courses, or
23 museums shall not be subject to ~~said~~ such prohibition,
24 and

1 d. expends within eighteen (18) months after the date of
2 the investment at least fifty percent (50%) of the
3 proceeds of the investment for the acquisition of
4 tangible or intangible assets which are used in the
5 active conduct of the trade or business of the
6 Oklahoma business venture or to provide working
7 capital for the active conduct of such trade or
8 business. For purposes of this subparagraph, "working
9 capital" shall not include consulting, brokerage or
10 transaction fees. Provided, that the Oklahoma Tax
11 Commission, upon request and demonstration of need by
12 a qualified venture capital company or an Oklahoma
13 business venture, may extend the eighteen-month period
14 otherwise required by this subparagraph for a period
15 not to exceed six (6) months. Provided, the
16 expenditure of the invested funds by the Oklahoma
17 business venture shall otherwise comply with the
18 requirements applicable to the usage of tax credits
19 for investment in the Oklahoma business venture. As
20 used in this subparagraph, "tangible assets" shall
21 include the acquisition of real property and the
22 construction of improvements upon real property if
23 such acquisition and construction otherwise complies
24 with the requirements applicable to the usage of tax

1 credits for investment in the Oklahoma business
2 venture and "intangible assets" shall be limited to
3 computer software, licenses, patents, copyrights, and
4 similar items;

5 3. "Direct investment" means the purchase of securities of a
6 private company, or securities of a public company if the securities
7 constitute a new issue of a public company and such public company
8 had previous year sales ~~of~~ less than Ten Million Dollars
9 (\$10,000,000.00); and

10 4. "Debt and equity funds" means investments in debt
11 securities; including unsecured, undersecured, subordinated or
12 convertible loans or debt securities; and/or equity securities,
13 including common and preferred stock, royalty rights, limited
14 partnership interest, and any other securities or rights that
15 evidence ownership in businesses; provided such investment of debt
16 and equity funds shall not have a repayment schedule that is faster
17 than a level principal amortization over five (5) years.

18 C. The credit provided for in subsection A of this section
19 shall be twenty percent (20%) of the cash amount invested in
20 qualified venture capital companies which is subsequently invested
21 in an Oklahoma business venture by the qualified venture capital
22 company and may only be claimed for a taxable year during which the
23 qualified venture capital company makes an investment in an Oklahoma
24 business venture. The credit shall be allowed for the amount of the
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1 investment in an Oklahoma business venture if the funds are used in
2 pursuit of a legitimate business purpose of the Oklahoma business
3 venture consistent with its organizational instrument, bylaws or
4 other agreement responsible for the governance of the business
5 venture. The qualified venture capital company shall issue such
6 reports as the Oklahoma Tax Commission may require attributing the
7 source of funds of each investment it makes in an Oklahoma business
8 venture. ~~The Oklahoma Capital Investment Board shall have the~~
9 ~~authority to certify an entity as a qualified venture capital~~
10 ~~company and to certify an investment to be a qualifying Oklahoma~~
11 ~~business venture for purposes of complying with subsection B of this~~
12 ~~section. Such certification shall be binding on the Oklahoma Tax~~
13 ~~Commission. Such certification shall not be mandatory but may be~~
14 ~~requested by any entity that desires to be certified. A reasonable~~
15 ~~certification fee may be charged by the Oklahoma Capital Investment~~
16 ~~Board for this service. If the tax credit allowed pursuant to~~
17 ~~subsection A of this section exceeds the amount of taxes due or if~~
18 ~~there are no state taxes due of the taxpayer, the amount of the~~
19 ~~claim not used as an offset against the taxes of a taxable year may~~
20 ~~be carried forward as a credit against subsequent tax liability for~~
21 ~~a period not to exceed three (3) years. No investor in a venture~~
22 capital company organized after July 1, 1992, may claim tax credits
23 under the provisions of this section.

1 D. No taxpayer may claim the credit provided for in subsection
2 A of this section for investments in qualified venture capital
3 companies made prior to January 1, 1987.

4 ~~E. No investor whose capital is guaranteed by the Oklahoma
5 Capital Investment Board may claim or transfer the credit provided
6 for in subsection A of this section for investments in such
7 guaranteed portfolio.~~

8 ~~F.~~ The credit provided for in subsection A of this section, to
9 the extent not previously utilized, shall be freely transferable to
10 and by subsequent transferees for a period of three (3) years from
11 the date of investment in the Oklahoma business venture.

12 ~~G.~~ F. If a pass-through entity is entitled to a credit under
13 this section, the pass-through entity shall allocate such credit to
14 one or more of the shareholders, partners or members of the pass-
15 through entity; provided, the total of all credits allocated shall
16 not exceed the amount of the credit to which the pass-through entity
17 is entitled. The credit may also be claimed for funds borrowed by
18 the pass-through entity to make a qualified investment if a
19 shareholder, partner or member to whom the credit is allocated has
20 an unlimited and continuing legal obligation to repay the borrowed
21 funds but the allocation may not exceed such shareholder's,
22 partner's or member's pro-rata equity share of the pass-through
23 entity even if the taxpayer's legal obligation to repay the borrowed
24 funds is in excess of such pro-rata share of such borrowed funds.

1 For purposes of ~~this act~~ the Oklahoma Income Tax Act, "pass-through
2 entity" means a corporation that for the applicable tax years is
3 treated as an S corporation under the Internal Revenue Code of 1986,
4 as amended, general partnership, limited partnership, limited
5 liability partnership, trust or limited liability company that for
6 the applicable tax year is not taxed as a corporation for federal
7 income tax purposes.

8 SECTION 2. AMENDATORY 74 O.S. 2021, Section 85.42, is
9 amended to read as follows:

10 Section 85.42. A. 1. Except as otherwise provided for in this
11 section or other applicable law, any agency, whether or not such
12 agency is subject to the Oklahoma Central Purchasing Act, is
13 prohibited from entering into a sole source contract or a contract
14 for professional services with or for the services of any person,
15 who has terminated employment with or who has been terminated by
16 that agency for one (1) year after the termination date of the
17 employee from the agency. The provisions of this subsection shall
18 not prohibit an agency from hiring or rehiring such person as a
19 state employee.

20 2. Any chief administrative officer of an agency, whether or
21 not such agency is subject to the Oklahoma Central Purchasing Act,
22 shall not enter into any contract for nonprofessional or
23 professional services for the purpose of or which would result in
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1 the circumvention of the full-time equivalent employee limitation
2 established by law for such agency.

3 B. Each contract entered into by any person or firm with ~~the~~
4 ~~State of Oklahoma~~ this state shall include a statement certifying
5 that no person who has been involved in any manner in the
6 development of that contract while employed by the state shall be
7 employed to fulfill any of the services provided for under the
8 contract. This subsection shall not preclude faculty and staff of
9 the institutions within The Oklahoma State System of Higher
10 Education from negotiating and participating in research grants and
11 educational contracts. ~~Nor shall this subsection apply to Oklahoma~~
12 ~~Department of Commerce personnel who contract to provide services to~~
13 ~~the Oklahoma Capital Investment Board.~~

14 C. As used in this section, ~~person~~ "person" is defined as any
15 state official or employee of a department, board, bureau,
16 commission, agency, trusteeship, authority, council, committee,
17 trust, school district, fair board, court, executive office,
18 advisory group, task force, study group, supported in whole or in
19 part by public funds or entrusted with the expenditure of public
20 funds or administering or operating public property, and all
21 committees, or subcommittees thereof, judges, justices and state
22 legislators.

1 D. Notwithstanding anything to the contrary in this section,
2 the following sole source or professional services contracts are
3 allowed at any time:

4 1. A contract for professional services at any time with a
5 person who is a qualified interpreter for the deaf; and

6 2. A contract between a business entity that is a part-time
7 certified court reporter and the Administrative Office of the
8 Courts, on behalf of the district courts, or the Office of the
9 Attorney General.

10 E. Provided the provisions specified in subsection B of this
11 section are satisfied, the following professional services contracts
12 are allowed:

13 1. The Department of Transportation, Oklahoma Water Resources
14 Board, Department of Environmental Quality, Oklahoma Tourism and
15 Recreation Department, the Oklahoma Turnpike Authority and the
16 Oklahoma Department of Agriculture, Food, and Forestry may contract
17 with a person who has retired from state service;

18 2. To maintain public health infrastructure and preparedness,
19 the State Department of Health and city-county health departments
20 may contract with a physician assistant, ~~registered nurse~~ Registered
21 Nurse, advanced practice nurse, ~~nurse-midwife~~ Nurse-Midwife,
22 registered dietician, occupational therapist, physical therapist or
23 speech-language pathologist who has retired from state service; and
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1 3. The Department of Mental Health and Substance Abuse Services
2 may contract with a physician, ~~registered nurse~~ Registered Nurse,
3 registered pharmacist or person meeting the definition of a licensed
4 mental health professional, as defined in Title 43A of the Oklahoma
5 Statutes, who has separated and/or retired from state service.

6 SECTION 3. AMENDATORY 74 O.S. 2021, Section 3601.1, as
7 last amended by Section 36, Chapter 29, O.S.L. 2023 (74 O.S. Supp.
8 2024, Section 3601.1), is amended to read as follows:

9 Section 3601.1. A. For purposes of Sections 3601.1 through
10 3603 of this title, the term "employee" means a full-time employee
11 or any number of part-time employees whose combined weekly hours of
12 employment equal those of a full-time employee, but shall not
13 include temporary employees working on a seasonal basis between May
14 1 and October 31.

15 B. Beginning July 1, 2008, the maximum number of full-time-
16 equivalent employees for each of the following agencies, boards,
17 commissions, departments, or programs shall not exceed the numbers
18 specified in this section, except as may be authorized pursuant to
19 the provisions of Section 3603 of this title.

	MAXIMUM NUMBER OF FULL-TIME-EQUIVALENT EMPLOYEES
Oklahoma Employment Security Commission	1150
Oklahoma Accountancy Board	11

1	Board of Governors of the Licensed Architects,	
2	Landscape Architects and Registered Commercial	
3	<u>Licensed</u> Interior Designers of Oklahoma	4
4	Board of Chiropractic Examiners	3
5	State Board of Cosmetology and Barbering	16
6	Board of Dentistry	10
7	Oklahoma Funeral Board	5
8	State Board of Licensure for Professional	
9	Engineers and Land Surveyors	10
10	State Board of Medical Licensure and Supervision/	
11	Board of Podiatric Medical Examiners/State	
12	Board of Examiners of Perfusionists	29
13	Oklahoma Energy Resources Board	5
14	Oklahoma New Motor Vehicle Commission	6
15	Oklahoma Board of Nursing	35
16	Oklahoma State Board of Examiners for Long-Term	
17	Care Administrators	4
18	Board of Examiners in Optometry	3
19	State Board of Osteopathic Examiners	7
20	State Board of Pharmacy	15
21	State Board of Examiners of Psychologists	2
22	Oklahoma Real Estate Commission	26
23	Board of Examiners for Speech-Language Pathology	
24	and Audiology	2

1	Oklahoma Used Motor Vehicle, Dismantler, and	
2	Manufactured Housing Commission	15
3	State Board of Veterinary Medical Examiners	6
4	Oklahoma Firefighters Pension and Retirement	
5	System	13
6	Oklahoma Police Pension and Retirement System	12
7	Teachers' Retirement System of Oklahoma	52
8	Oklahoma Public Employees Retirement System	63
9	Oklahoma Student Loan Authority	85
10	<u>The</u> Oklahoma Industrial Finance	
11	Authority/Oklahoma Development Finance	
12	Authority	10
13	State and Education Employees Group Insurance	
14	Board	178
15	Oklahoma Capital Investment Board	4
16	State Board of Licensed Social Workers	1
17	Oklahoma State Employees Benefits Council	38
18	Banking Department	46
19	Liquefied Petroleum Gas Administration	10
20	C. The duties and compensation of employees, not otherwise	
21	prescribed by law, necessary to perform the duties imposed upon the	
22	Oklahoma Public Employees Retirement System Board of Trustees by law	
23	shall be set by the Board of Trustees.	
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1 D. Temporary employees of the Oklahoma Used Motor Vehicle,
2 Dismantler, and Manufactured Housing Commission between the dates of
3 November 1 and January 31 annually shall not be counted toward the
4 maximum number of full-time-equivalent employees provided for in
5 this section.

6 SECTION 4. REPEALER 74 O.S. 2021, Sections 5085.1
7 through 5085.16, are hereby repealed.

8 SECTION 5. This act shall become effective November 1, 2025.

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