

An Act

ENROLLED SENATE
BILL NO. 903

By: Leewright of the Senate

and

Echols and Manger of the
House

An Act relating to Oklahoma Tourism Development Act;
amending 68 O.S. 2021, Section 2396, which relates to
tourism project agreements; modifying the term of
certain agreement; and increasing term of agreement
for certain businesses on certain date.

SUBJECT: Oklahoma Tourism Development Act agreements

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2396, is
amended to read as follows:

Section 2396. A. Upon granting final approval, the Executive
Director of the Oklahoma Tourism and Recreation Department may enter
into an agreement with an approved company with respect to its
tourism attraction project. The terms and provisions of each
agreement shall include, but shall not be limited to:

1. The amount of approved costs, which shall be determined by
negotiations between the Executive Director and the approved
company;

2. A date certain by which the approved company shall have
completed the tourism attraction project or an individual component
or phase of the project if the tourism attraction project is an
Entertainment District. Within three (3) months of the completion
date of the whole or an individual component or phase of the

project, the approved company shall document its actual costs of the project through a certification of the costs by an independent certified public accountant acceptable to the Executive Director; and

3. The following provisions:

- a. the term of the agreement shall be ~~ten (10) years~~ fifteen (15) years from the later of:
 - (1) the date of the final approval of the tourism attraction project, or
 - (2) the completion date specified in the agreement, if the completion date is within three (3) years of the date of the final approval of the tourism attraction project. However, the term of the agreement may be extended for up to two (2) additional years by the Executive Director, with the advice and consent of the Oklahoma Tax Commission, if the Executive Director determines that the failure to complete the tourism attraction project within three (3) years resulted from:
 - (a) unanticipated and unavoidable delay in the construction of the tourism attraction project,
 - (b) an original completion date for the tourism attraction project, as originally planned, which will be more than three (3) years from the date construction began, or
 - (c) a change in business structure resulting from a merger or acquisition.

Provided, however, the businesses that have existing agreements with the Oklahoma Tourism and Recreation Department under the Tourism Development Act on the effective date of this act shall be allowed to increase the

total number of years on their agreements to fifteen (15) years upon approval of the Executive Director,

- b. in any tax year during which an agreement is in effect, if the amount of sales tax to be remitted by the approved company or an Entertainment District Tenant Party, if applicable, exceeds the sales tax credit available to the approved company or Entertainment District Tenant Party, if applicable, then the approved company or Entertainment District Tenant Party, if applicable, shall pay the excess to this state as sales tax,
- c. within forty-five (45) days after the end of each calendar year the approved company shall supply the Executive Director with such reports and certifications as the Executive Director may request demonstrating to the satisfaction of the Executive Director that the approved company is in compliance with the provisions of the Oklahoma Tourism Development Act, and
- d. the approved company or an Entertainment District Tenant Party, if applicable, shall not receive an inducement with respect to any calendar year if:
 - (1) with respect to any tourism attraction project that is not an Entertainment District in any calendar year following the fourth year of the agreement, the tourism attraction project fails to attract at least fifteen percent (15%) of its visitors from among persons who are not residents of this state, or
 - (2) in any calendar year following the first year of the project or the tourism attraction project is not operating and open to the public on a regular and consistent basis, which for a tourism attraction project that is an Entertainment District shall mean that a substantial portion of the Entertainment District is not operating and

open to the public on a regular and consistent basis.

B. The agreement shall not be transferable or assignable by the approved company without the written consent of the Executive Director but, with respect to a tourism attraction project that is an Entertainment District, the approved company can elect to pass-through all or a portion of the sales tax credit to one or more Entertainment District Tenant Parties in accordance with Section 2397 of this title.

C. If the approved company utilizes or receives inducements which are subsequently disallowed then the approved company will be liable for the payment to the Tax Commission of an amount equal to (i) all taxes resulting from the disallowance of the inducements plus applicable penalties and interest, whether owed by the approved company or an Entertainment District Tenant Party to which the credits have been passed-through in accordance with Section 2397 of this title, and/or (ii) all incentive payments previously received by the approved company, plus applicable penalties and interest. Only the approved company originally allowed a sales tax credit shall be held liable to make such payments and not any Entertainment District Tenant Party to whom the credit has been passed-through in accordance with Section 2397 of this title.

D. The Executive Director shall provide a copy of each agreement entered into with an approved company to the Tax Commission.

E. For a tourism attraction project that is an Entertainment District and anticipated to have multiple components or phases, the Executive Director may enter into more than one agreement with different approved companies for the different components or phases of the Entertainment District and such agreements may be entered into at different times as though the different components or phases of the Entertainment District are their own separate project. In such case, the Executive Director shall not be required to obtain a separate consultant's report (referred to in subsection C of Section 2394 of this title) for each individual component or phase of the Entertainment District, but only one consultant's report for the entire Entertainment District.

Passed the Senate the 9th day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 7th day of April, 2022.

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: _____