

SHORT TITLE: Property; modifying definition of institution for purposes of Uniform Management of Institutional Endowment Funds Act; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 437

By: Hendrick

AS INTRODUCED

An Act relating to property and foundations for public higher education institutions; amending Sections 2 and 3, Chapter 131, O.S.L. 1992 (60 O.S. Supp. 1992, Sections 300.2 and 300.3), which relate to the Uniform Management of Institutional Endowment Funds Act; modifying definition of institution; modifying legislative intent; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 131, O.S.L. 1992 (60 O.S. Supp. 1992, Section 300.2), is amended to read as follows:

Section 300.2 A. The Legislature finds that:

1. ~~Privately supported educational~~ Educational, religious, and charitable organizations perform essential and needed services in the state;

2. Uncertainty regarding legal restrictions on the management, investment, and expenditure of endowment funds of educational, religious, and charitable organizations has in many instances precluded obtaining the highest available return on endowment funds; and

3. The educational, religious, and charitable organizations, their officers, directors, and trustees, and the citizens of this state will benefit by removal of the uncertainty and by permitting endowment funds to be invested for the long-term goals of achieving

growth and maintaining purchasing power without adversely affecting availability of funds for current expenditure.

B. The purpose of the Uniform Management of Institutional Endowment Funds Act, Section 300.1 et seq. of this title, is to provide guidelines for the management, investment, and expenditure of endowment funds of privately supported educational, religious, and charitable organizations in order to eliminate uncertainty regarding legal restrictions on the management, investment, and expenditure of the funds and to enable the organizations to maximize their resources.

SECTION 2. AMENDATORY Section 3, Chapter 131, O.S.L. 1992 (60 O.S. Supp. 1992, Section 300.3), is amended to read as follows:

Section 300.3 As used in the Uniform Management of Institutional Endowment Funds Act, Section 300.1 et seq. of this title:

1. "Gift instrument" means:
 - a. a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document under which property is transferred by a donor to an institution as an institutional endowment fund, or
 - b. an oral statement or condition expressed by the donor at the time of transfer of property to an institution, which oral statement or condition is memorialized in writing by the institution at the time of the gift, that the institution is to hold the gift as an institutional endowment fund.

The gift instrument shall also include the terms of any institutional solicitations from which an institutional endowment fund resulted;

2. "Governing board" means the body responsible for the management of an institution or of an institutional endowment fund;

3. "Historic dollar value" means the aggregate fair value in dollars of:

- a. an institutional endowment fund at the time it became an institutional endowment fund,
- b. each subsequent donation to the fund at the time it is made, and
- c. each accumulation made pursuant to a direction in the applicable gift instrument or of the governing board at the time the accumulation is added to the fund.

The determination of historic dollar value made in good faith by the governing board of the institution or the institutional trustee is conclusive;

4. "Institution" means an incorporated or unincorporated organization which is recognized under Section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C., Section 501(c)(3), as being organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes. The term does not include:

- a. any public common school ~~and public institution of higher education~~, or a foundation chartered for the benefit of such public common school ~~or public institution of higher education~~, or for the benefit of a component of such school ~~or institution of higher education~~,
- b. any governmental entity or a foundation chartered for the benefit of a governmental entity or for the benefit of a component of such governmental entity, or
- c. a private foundation as defined by Section 509(a)k of the Internal Revenue Code of 1986, 26 U.S.C., Section 509(a);

5. "Institutional endowment fund" means:

- a. a fund held by an institution for its exclusive use, benefit or purposes, and which is not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument, or
- b. a fund which is held in trust by an institution as trustee for another institution under the terms of the applicable gift instrument.

The term does not include:

- a. a fund held for an institution in trust by a trustee that is not an institution, or
- b. a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund; and

6. "Institutional trustee" means an institution acting as trustee of an institutional endowment fund which under the terms of the applicable gift instrument is held in trust for the benefit of one or more institutions.

SECTION 3. This act shall become effective September 1, 1993.

44-1-0704

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