

ENROLLED HOUSE
BILL NO. 1181

By: Mitchell of the House

and

Herbert of the Senate

An Act relating to tourism; amending 74 O.S. 1991, Section 1830, as amended by Section 1, Chapter 274, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1830), which relates to multicounty organizations; modifying definitions; specifying certain requirements multicounty organizations shall be subject to prior to receiving matching funds for expenditures incurred for certain purposes; modifying requirements and contents of certain audit report; specifying qualifications of person or entity engaged to perform such audit; requiring the State Auditor and Inspector to conduct certain office examination of such audits annually; specifying content of such examination; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 1830, as amended by Section 1, Chapter 274, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1830), is amended to read as follows:

Section 1830. A. The Oklahoma Tourism and Recreation Department, with the approval of the Tourism and Recreation Commission, shall develop rules ~~and regulations~~ to administer any of the matching funds derived from the Department for the allowable expenditures of multicounty organizations. Such rules ~~and regulations~~ shall be developed in accordance with this section. As used in this section:

1. "Administrative expenditure" shall mean those expenditures for the administration of fund raising and tourism promotion. Administrative expenditures shall include salaries and payroll taxes, personal services contracts, travel expenses not to exceed the amounts provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title, rent of facilities, office supplies, telephone and telegraph and multicounty organization audit costs;

2. "Allowable expenditure" shall mean those expenditures by multicounty organizations submitted to the Department of Tourism and Recreation for matching funds in accordance with the provisions of this section and the rules ~~and regulations~~ promulgated by the Tourism and Recreation Commission;

3. "Discretionary expenditure" shall mean those expenditures by multicounty organizations for which matching funds are not requested. Discretionary expenditures are not subject to the limiting provisions of this section and the rules ~~and regulations~~ promulgated by the Tourism and Recreation Commission;

4. "Independent and certified audit" shall mean ~~an audit performed by a public accountant or certified public accountant registered with the Oklahoma Board of Public Accountancy. The audit shall be to the standards established by the Board of Public Accountancy for audits and~~ a financial-related audit performed in accordance with Generally Accepted Government Auditing Standards, issued by the Comptroller General of the United States. The scope of the audit shall, at a minimum, consist of a statement of revenue and expenditures and shall include the specific requirements identified in this section and in Tourism and Recreation rules and regulations; and

5. "Tourism promotion expenditure" shall mean those expenditures for the preparation, printing, publication and distribution of media advertising in brochures, news and publicity materials, travel posters, mailing pieces, newspapers, magazines, television, radio, billboards, advertising and promotional specialties, exhibit space and displays at trade shows and conventions and the expenses for operating such exhibits, not to exceed amounts provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title, the cost of travel writer, travel agent, tour broker and tour operator familiarization tours into the State of Oklahoma and registration fees for the annual tourism and recreation industry conference for the purpose of attracting tourists or generating travel or tourism activity within the state or multicounty organization areas. The amount expended within the multicounty organization area for tourism promotion shall not exceed fifty percent (50%) of the total of allowable expenditures and allocated matching funds.

B. It is the intent of the Legislature to encourage the promotion of tourism by multicounty organizations in cooperation with the Tourism and Recreation Department's statewide program. Allowable administrative expenditures by multicounty organizations shall not exceed forty percent (40%) of the lesser of either the total amount allocated (including reallocations) to the organization from appropriations made by the Legislature or the total of the matched expenditures. The limitation on administrative expenditures applies only to those expenditures submitted for matching with state appropriated funds.

C. Matching funds for the allowable expenditures shall be based upon actual expenditures by the multicounty organization less any discount, refund, or rebate to the multicounty organization. Multicounty organizations shall use a State of Oklahoma Notarized Claim Form with all applicable statements and affidavits to request matching funds for the allowable expenditures.

D. In order for a multicounty organization to receive matching funds for expenditures incurred to publish and distribute a promotional periodical emphasizing the attractions, landmarks, activities, geographical features and other characteristics of counties within the multicounty organization's area of responsibility, the multicounty organization shall be subject to the following requirements:

1. Any funds collected on behalf of the multicounty organization for advertisements in the promotional periodical shall be paid to the multicounty organization within twenty (20) working days after collection by any entity acting on behalf of the multicounty organization for solicitation of advertising revenue. The multicounty organization shall deposit any funds paid to it within five (5) working days of receipt;

2. A multicounty organization shall maintain an account with a financial institution subject to the regulatory control of a state

or federal financial regulatory entity for the deposit and withdrawal of all funds collected by or on behalf of the multicounty organization;

3. A multicounty organization shall prepare an annual Statement of Income and Expense showing all deposits to the account maintained with the financial institution and all withdrawals from the account with the financial institution for the period covered by the annual income and expense statement;

4. A multicounty organization may enter into a contract with a person or legally organized business entity for the solicitation of advertising revenue in a promotional periodical publication and for the publication and distribution of the periodical emphasizing the attributes of sites, scenes, businesses and attractions located within the area for which the multicounty organization is responsible if:

- a. the person or legally organized business entity provides a detailed written disclosure to the multicounty organization of its actual costs incurred in performance of the contract on a periodic basis during the period prescribed in the contract for performance which disclosure shall be at least quarterly,
- b. the multicounty organization ensures that the actual cost of publication for the promotional periodical is printed in at least 10-point type somewhere in the body of the publication,
- c. the multicounty organization ensures that the person or legally organized business entity performing services on behalf of the multicounty organization identifies to the multicounty organization each purchaser of advertising in the multicounty organization promotional periodical, the amount of money paid for advertising in the promotional periodical, and the size or other relevant characteristics of the material purchased for publication in the promotional periodical,
- d. the person or legally organized business entity soliciting advertising revenue may not advance or deposit their own funds as a means of securing matching state funds, and such acts shall be deemed as fraud, subject to prosecution, and
- e. the multicounty organization and the person or legally organized business entity acting on behalf of the multicounty organization both execute a statement, upon a form to be prescribed by the State Auditor and Inspector, under oath that any funds being requested from the Department of Tourism and Recreation for matching of an allowable expenditure as authorized by this section represent an amount of money equal to an amount of money that has previously been deposited into the account maintained by the multicounty organization as of the date the request for matching funds is made. The statement shall include the identity of each purchaser of advertising in the multicounty organization promotional periodical and the amount of money paid for advertising in the periodical together with the other information required by subparagraph c of this paragraph. The statement shall also include a verification that the

funds collected by or on behalf of the multicounty organization were expended for:

- (1) a legitimate operational expense of the multicounty organization,
- (2) the purpose of obtaining matching funds as authorized by this section, or
- (3) a promotional event sponsored, conducted or organized by the multicounty organization for attracting attention to a specific location or occasion in furtherance of a purpose for which the multicounty organization was formed.

E. Each multicounty organization shall prepare and submit appropriate plans, including a budget work program, for the ensuing fiscal year to the Tourism and Recreation Commission. Expenditures for obligations incurred before the Tourism and Recreation Commission approves the multicounty organizations' plans and budget work programs and any changes thereto, and expenditures not in accordance with the multicounty organizations' plans and budget work programs, shall not be allowable expenditures. The Tourism and Recreation Commission's approval of a multicounty organization budget work program constitutes a firm commitment of the multicounty organization's appropriated funds, subject to any fiscal year limitation, except that the Commission may reallocate unobligated funds as provided by law.

F. Each multicounty organization shall be required to submit an annual independent and certified audit of the multicounty organization. The audits shall encompass all funds available to the multicounty organization. The audit report shall include a ~~statement showing the source of the funds and the fund raising method, and the disbursement of all allowable and discretionary expenditures~~ statement of Income and Expense and, at a minimum, encompass all monies received by the multicounty organization and all matched expenditures reimbursed to the multicounty organization. Revenue reported shall include all advertising revenue received and define all other individual sources of revenue. The names and addresses and amounts received from each advertiser shall be included as an unaudited supplemental schedule to the audit report.

G. The person or entity engaged to perform the audit required by subsection F of this section shall:

1. Not be the same person or entity that performs bookkeeping, controllership or management functions, or other accounting services for the multicounty organization;

2. Be registered with the Oklahoma Accountancy Board and possess a permit to practice; and

3. File a copy of the audit performed on behalf of a multicounty organization with the State Auditor and Inspector.

H. Failure to submit an audit report shall be cause for withholding of matching funds to a multicounty organization. Audit reports showing matching by any amount in excess of the allowable expenditures, matching for unallowable expenditures, or noncompliance with statutes, procedures prescribed herein, or Tourism and Recreation rules ~~and regulations~~ shall be cause for withholding of matching funds until such time as restitution is made to the Department of Tourism and Recreation.

I. The State Auditor and Inspector shall conduct an office examination of the audits filed pursuant to paragraph 3 of subsection G of this section on an annual basis. The examination shall include analysis of the quality of the audit performed and

shall include written recommendations for modifications in future audits conducted on behalf of a multicounty organization.

SECTION 2. This act shall become effective July 1, 1995.

SECTION 3. 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.

Passed the House of Representatives the 24th day of May, 1995.

Speaker of the House of
Representatives

Passed the Senate the 25th day of May, 1995.

President of the Senate