STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1002 By: Askins of the House

and

Brown of the Senate

COMMITTEE SUBSTITUTE

(Tobacco - Tobacco Settlement Endowment Trust Fund -

codification -

emergency)

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 600.13 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a trust fund to be known as the "Tobacco Settlement Endowment Trust Fund". The Trust Fund principal shall consist of monies which are received by the State of Oklahoma pursuant to any settlement with or judgment against any tobacco company or companies, designated for the purposes set forth in subsection L of this section which are not specifically designated for any other purpose. The Trust Fund principal shall not be diminished, except in accordance with a recoupment action by a federal agency. The Trust Fund principal shall not be subject to the provisions of Section 19 of Title 74 of the Oklahoma Statutes. Notwithstanding other provisions of law, income and investment return on Trust Fund principal shall accrue to the Trust Fund.

B. The Trust Fund shall be managed by a Board of Trustees. The Board of Trustees shall consist of five (5) members, as follows:

1. The State Treasurer or designee;

2. The State Auditor and Inspector or designee;

3. One citizen member appointed by the Governor who shall have a demonstrated expertise in public or private investment finance;

4. One citizen member appointed by the President Pro Tempore of the Senate who shall have a demonstrated expertise in public or private investment funds management; and

5. One citizen member appointed by the Speaker of the House of Representatives who shall have a demonstrated expertise in public or private investment funds finance or management.

C. The Trustees shall receive no salary for serving on the Board. All Trustees shall receive necessary travel expenses in accordance with the provisions of the State Travel Reimbursement Act from funds of the Trust Fund.

D. The Board of Trustees shall hold its first meeting upon the certification by the Attorney General to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives that the State of Oklahoma has a signed settlement agreement, has been awarded a final judgment against any tobacco company or companies, or has received any federal monies from a tobacco settlement act.

E. The Trustees shall discharge their duties as trustees of the Trust Fund:

1. With the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

2. By diversifying the investments of the Trust Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

3. In accordance with the laws, documents and instruments governing the Trust Fund.

F. The Board of Trustees shall retain qualified investment managers to provide for the investment of the monies of the Trust Fund. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Trustees. The investment managers shall have full discretion in the management of those monies of the Trust Fund allocated to the investment managers, subject to the overall investment guidelines set by the Board of Trustees. The monies of the Trust Fund allocated to the investment managers shall be actively managed by the investment managers. The investment managers may sell investments and realize losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses. The Board of Trustees shall have the State Treasurer manage those monies not specifically allocated to the investment managers.

G. Funds and revenues to be invested by the investment managers or the Board of Trustees shall be placed with a custodian selected by the Board of Trustees. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive basis pursuant to standards set by the Board of Trustees.

H. The Board of Trustees shall choose the custodians and managers of the assets of the Trust Fund, shall establish investment and fund management guidelines, and shall adopt an investment policy. The selection of investment managers and a custodian bank shall be exempt from the provisions of the Oklahoma Central Purchasing Act.

I. The State Treasurer shall provide any necessary staff support to the Board of Trustees. The cost of up to one full-time-equivalent employee for the Office of the State Treasurer may be considered as an administrative expense of the Trust Fund. However, the amount provided to the State Treasurer for this purpose shall be determined by the Board of Trustees.

J. At the end of each calendar year, the Board of Trustees shall determine the annual earnings of the Trust Fund. At a minimum ninety-five percent (95%) of these earnings, less the amount of reasonable expenses for administration from that year, shall be disbursed as follows:

1. One-third (1/3) shall be transferred to the Oklahoma Teachers' Retirement Fund provided for by Section 17-106.3 of Title 70 of the Oklahoma Statutes to retire the unfunded liability of the Teachers' Retirement System of Oklahoma until such transfers amount to One Billion Dollars ($1,000,000,000.00); and

2. The remainder shall be transferred to the Tobacco Settlement Special Cash Fund by March 1 of the succeeding year and be available for appropriation by the Legislature.

K. There is hereby created in the State Treasury a special fund to be designated the "Tobacco Settlement Special Cash Fund".

L. Appropriations from the Tobacco Settlement Special Cash Fund shall be used to augment Oklahoma efforts related to:

1. Maternal and child preventive health services;

2. Maternal and child substance abuse prevention and treatment;

3. Reducing youth access to tobacco;

4. Prevention and reduction of tobacco use; and

5. Youth substance abuse prevention, intervention, and treatment and aftercare.

In the event that earnings from the fund exceed the needs specified in this subsection, monies from the fund may be appropriated to other health-related purposes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 600.14 of Title 37, unless there is created a duplication in numbering, reads as follows:

Any monies received by the State of Oklahoma as a result of a federal tobacco settlement act, except unrestricted funds received through a settlement or judgment referred to in subsection A of Section 1 of this act, shall be subject to the provisions of Section 41.13b of Title 62 of the Oklahoma Statutes.

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.

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