

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 372

By: Henry of the Senate

and

6 Blackburn of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to higher education; amending Section
11 4, Chapter 366, O.S.L. 1998 and Section 5, Chapter
12 366, O.S.L. 1998 (70 O.S. Supp. 1998, Sections 3970.4
13 and 3970.5), which relate to the Oklahoma College
14 Savings Plan Act; prescribing terms for members of
15 certain Board; deleting redundant words; exempting
16 certain Board from Oklahoma Central Purchasing Act;
17 requiring certain Board to develop competitive
18 process for selection of certain institutions and
19 managers; requiring Board to develop certain
20 policies; requiring certain public notice and
21 hearing; amending 75 O.S. 1991, Section 250.4, as
22 last amended by Section 42 of Enrolled House Bill No.
23 1845 of the 1st Session of the 47th Oklahoma
24 Legislature, which relates to the Administrative
25 Procedures Act; exempting certain entities from
26 compliance with the Administrative Procedures Act;
27 providing an effective date; and declaring an
28 emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 366, O.S.L.
1998 (70 O.S. Supp. 1998, Section 3970.4), is amended to read as
follows:

Section 3970.4 A. There is hereby created the Board of
Trustees of the Oklahoma College Savings Plan program composed of
seven (7) members as follows:

1. The State Treasurer;
2. The State Auditor and Inspector;
3. The State Superintendent of Public Instruction;

1 4. The Chancellor of the Oklahoma State Regents for Higher
2 Education;

3 5. Three members, from the general public, each of whom
4 possesses knowledge, skill and experience in accounting, risk
5 management, investments, financial management, or actuarial science,
6 one of whom is appointed by the Governor, one by the Speaker of the
7 House of Representatives, and one by the President Pro Tempore of
8 the Senate. The initial appointee of the Governor shall serve a
9 term of two (2) years. The initial appointee of the President Pro
10 Tempore of the Senate shall serve a term of three (3) years. The
11 initial appointee of the Speaker of the House of Representatives
12 shall serve a term of four (4) years. Upon expiration of the
13 initial terms, subsequent terms shall be for four (4) years.

14 B. The State Treasurer shall serve as chair of the Board. The
15 Board shall select a vice-chair.

16 C. Members of the Board may designate members of their
17 respective staffs to attend meetings of the Board and to vote in
18 their absence. Such designations shall be in writing to the chair
19 of the Board and filed with the Secretary of State.

20 D. Members of the Board shall serve without compensation but
21 shall receive reasonable reimbursement from their respective office
22 or agency or in the case of appointed members from the appointing
23 authority for actual and necessary travel expenses in accordance
24 with the State Travel Reimbursement Act.

25 E. A majority of the members of the Board serving shall
26 constitute a quorum for the transaction of business at a meeting of
27 the Board. Voting upon action to be taken by the Board shall be
28 conducted by a majority vote of the members present at the meeting
29 of the Board.

30 F. The business of the Board shall be conducted at meetings of
31 the Board held in compliance with the Oklahoma Open Meeting Act.
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1 The Board shall make available to the public records as required by
2 the Oklahoma Open Records Act.

3 G. The Board may delegate to the Oklahoma State Regents for
4 Higher Education some or all of the duties to carry out the day-to-
5 day operations and responsibilities of the program. The State
6 Regents shall provide staff for the Board. In exercising such
7 delegation, the State Regents shall be authorized to exercise such
8 powers as are vested in the Board which are necessary to fulfill the
9 delegated duties and responsibilities, and may assign any such
10 duties and responsibilities to the staff as the State Regents deem
11 necessary and proper.

12 H. The members of the Board are immune from personal liability
13 with respect to all actions that are taken in good faith and within
14 the scope of the Board's authority.

15 SECTION 2. AMENDATORY Section 5, Chapter 366, O.S.L.
16 1998 (70 O.S. Supp. 1998, Section 3970.5), is amended to read as
17 follows:

18 Section 3970.5 The Board of Trustees of the Oklahoma College
19 Savings Plan shall:

20 1. Develop and implement the program in a manner consistent
21 with this act through the adoption of ~~rules~~, guidelines and
22 procedures;

23 2. Retain professional services, if necessary, including
24 accountants, auditors, consultants and other experts;

25 3. Seek rulings and other guidance, if necessary, from the
26 United States Department of the Treasury, the Internal Revenue
27 Service, and the Oklahoma Attorney General relating to the program;

28 4. Make changes to the program required for the participants in
29 the program to obtain the federal income tax benefits or treatment
30 provided by Section 529 of the Internal Revenue Code;

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1 5. Interpret, in ~~rules~~, policies, guidelines and procedures,
2 the provisions of ~~this act~~ the Oklahoma College Savings Plan Act
3 broadly in light of its purpose and objectives;

4 6. Develop a schedule of application fees and other necessary
5 fees and charges in connection with any agreement, contract or
6 transaction relating to the program that are sufficient to offset
7 the administrative and staffing costs associated with the
8 implementation and administration of this program;

9 7. Select the financial institution or institutions to act as
10 the depositories and managers of the program accounts in accordance
11 with this act. For purposes of selecting such institutions and
12 managers, the Board shall be exempt from the Oklahoma Central
13 Purchasing Act. The Board shall develop a competitive process by
14 which the institutions and managers will be selected; and

15 8. ~~Adopt rules~~ Develop procedures to assist in the
16 administration and implementation of this act. Any guidelines or
17 procedures affecting existing or potential participants in the
18 Oklahoma College Savings Plan may only be implemented after
19 reasonable notice to the public and a public hearing in a manner
20 similar to requirements of the Administrative Procedures Act.

21 SECTION 3. AMENDATORY 75 O.S. 1991, Section 250.4, as
22 last amended by Section 42 of Enrolled House Bill No. 1845 of the
23 1st Session of the 47th Oklahoma Legislature, is amended to read as
24 follows:

25 Section 250.4 A. 1. Except as is otherwise specifically
26 provided in this subsection, each agency is required to comply with
27 Article I of the Administrative Procedures Act.

28 2. The Corporation Commission shall be required to comply with
29 the provisions of Article I of the Administrative Procedures Act
30 except for subsections A, B, C and E of Section 303 of this title
31 and Section 306 of this title. To the extent of any conflict or
32 inconsistency with Article I of the Administrative Procedures Act,

1 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
2 it is expressly declared that Article I of the Administrative
3 Procedures Act is an amendment to and alteration of Sections 18
4 through 34 of Article IX of the Oklahoma Constitution.

5 3. The Oklahoma Military Department shall be exempt from the
6 provisions of Article I of the Administrative Procedures Act to the
7 extent it exercises its responsibility for military affairs.

8 4. The Oklahoma Ordnance Works Authority ~~and~~, the Northeast
9 Oklahoma Public Facilities Authority and the Board of Trustees of
10 the Oklahoma College Savings Plan shall be exempt from Article I of
11 the Administrative Procedures Act.

12 5. The Oklahoma Transportation Commission and the Oklahoma
13 Department of Transportation shall be exempt from Article I of the
14 Administrative Procedures Act to the extent they exercise their
15 authority in adopting standard specifications, special provisions,
16 plans, design standards, testing procedures, federally imposed
17 requirements and generally recognized standards, project planning
18 and programming, and the operation and control of the State Highway
19 System.

20 6. The Oklahoma State Regents for Higher Education shall be
21 exempt from Article I of the Administrative Procedures Act with
22 respect to:

- 23 a. prescribing standards of higher education,
- 24 b. prescribing functions and courses of study in each
25 institution to conform to the standards,
- 26 c. granting of degrees and other forms of academic
27 recognition for completion of the prescribed courses,
- 28 d. allocation of state-appropriated funds, and
- 29 e. fees within the limits prescribed by the Legislature.

30 7. Institutional governing boards within The Oklahoma State
31 System of Higher Education shall be exempt from Article I of the
32 Administrative Procedures Act.

1 8. a. The Commissioner of Public Safety shall be exempt from
2 Sections 303.1, 303.2, 307.1, 308 and 308.1 of this
3 title insofar as it is necessary to promulgate rules
4 pursuant to the Oklahoma Motor Carrier Safety and
5 Hazardous Materials Transportation Act, to maintain a
6 current incorporation of federal motor carrier safety
7 and hazardous material regulations for which the
8 Commissioner has no discretion when the state is
9 mandated to promulgate rules identical to federal
10 rules and regulations.

11 b. Such rules may be adopted by the Commissioner and
12 shall be deemed promulgated twenty (20) days after
13 notice of adoption is published in "The Oklahoma
14 Register". Such publication need not set forth the
15 full text of the rule but may incorporate the federal
16 rules and regulations by reference.

17 c. Such copies of promulgated rules shall be filed with
18 the Secretary as required by Section 251 of this
19 title.

20 d. For any rules for which the Commissioner has
21 discretion to allow variances, tolerances or
22 modifications from the federal rules and regulations,
23 the Commissioner shall fully comply with Article I of
24 the Administrative Procedures Act.

25 B. As specified, the following agencies or classes of agency
26 activities are not required to comply with the provisions of Article
27 II of the Administrative Procedures Act:

- 28 1. The Oklahoma Tax Commission;
- 29 2. The Commission for Human Services;
- 30 3. The Oklahoma Ordnance Works Authority;
- 31 4. The Oklahoma Corporation Commission;
- 32 5. The Pardon and Parole Board;

1 6. The Midwestern Oklahoma Development Authority;

2 7. The Grand River Dam Authority;

3 8. The Northeast Oklahoma Public Facilities Authority;

4 9. The Board of Trustees of the Oklahoma College Savings Plan;

5 10. The supervisory or administrative agency of any penal,
6 mental, medical or eleemosynary institution, only with respect to
7 the institutional supervision, custody, control, care or treatment
8 of inmates, prisoners or patients therein; provided, that the
9 provisions of Article II shall apply to and govern all
10 administrative actions of the Oklahoma Alcohol Prevention, Training,
11 Treatment and Rehabilitation Authority;

12 ~~10.~~ 11. The Board of Regents or employees of any university,
13 college, or other institution of higher learning, except with
14 respect to expulsion of any student for disciplinary reasons;
15 provided, that upon any alleged infraction by a student of rules of
16 such institutions, with a lesser penalty than expulsion, such
17 student shall be entitled to such due process, including notice and
18 hearing, as may be otherwise required by law, and the following
19 grounds of misconduct, if properly alleged in disciplinary
20 proceedings against a student, shall be cause to be barred from the
21 campus and be removed from any college or university-owned housing,
22 upon conviction in a court of law:

- 23 a. participation in a riot as defined by the penal code,
- 24 b. possession or sale of any drugs or narcotics
25 prohibited by the penal code, Section 1 et seq. of
26 Title 21 of the Oklahoma Statutes, or
- 27 c. willful destruction of or willful damage to state
28 property;

29 ~~11.~~ 12. The Oklahoma Horse Racing Commission, its employees or
30 agents only with respect to hearing and notice requirements on the
31 following classes of violations which are an imminent peril to the
32 public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules,
- f. any filing of false information;

~~12.~~ 13. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

~~13.~~ 14. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

~~14.~~ 15. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

~~15.~~ 16. The Oklahoma Military Department;

~~16.~~ 17. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority;

~~17.~~ 18. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; and

~~18.~~ 19. The position audit procedure, including the impartial review process, of the Office of Personnel Management pursuant to Section 840-4.3 of Title 74 of the Oklahoma Statutes. Provided, that any appeal from an impartial review determination to a court of competent jurisdiction shall be confined to the record in accordance with the provisions of Article II of the Administrative Procedures Act.

SECTION 4. This act shall become effective July 1, 1999.

1 SECTION 5. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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