STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 567 By: Herbert of the Senate

and

Corn of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to tourism and recreation and higher education; providing definitions; creating board of trustees for the Quartz Mountain Arts and Conference Center and Nature Park; providing for appointment and terms of members; stating qualifications of members; stating powers and duties of board; making board corporate entity; requiring board to comply with Oklahoma Open Meeting Act and Oklahoma Open Records Act; authorizing budget submission; authorizing contracts for certain purposes; stating legislative intent that Oklahoma State Regents for Higher Education provide certain staff services and travel reimbursement; transferring Quartz Mountain Arts and Conference Center, Quartz Mountain State Park, and related properties from Oklahoma Tourism and Recreation Commission; creating Quartz Mountain Arts and Conference Center and Nature Park; transferring personnel and assumption of liabilities for personnel benefits; transferring certain real property; requiring execution of certain conveyances; requiring State Auditor and Inspector to determine certain funds to be transferred; authorizing and directing Director of Office of State Finance to transfer certain funds; limiting certain expenditures without approval of State Auditor and Inspector; providing for payment for extraordinary costs of State Auditor and Inspector; authorizing Oklahoma State Regents for Higher Education to establish certain funds and accounts; making certain funds and accounts subject to certain board of trustees; stating legislative intent that employees retain certain pay and benefits; providing right of certain employees to fill certain vacancies within Oklahoma Tourism and Recreation Department; providing retirement election for certain employees; relieving certain board of responsibility for certain claims; providing for succession of certain contractual rights and responsibilities; authorizing certain board to enforce certain rules; authorizing certain board to establish rules; exempting certain board from requirements of Administrative Procedures Act; amending 74 O.S. 1991, Section 1811.4, which relates to the State Capitol Park; transferring certain duties related to State Capitol Park to Department of Central Services; transferring certain personnel to

Department of Central Services; prohibiting change of certain employee benefits and pay; requiring State Auditor and Inspector to determine certain funds to be transferred; authorizing and directing Director of Office of State Finance to transfer certain funds; repealing Section 2, Chapter 166, O.S.L. 1998, as amended by Section 1, Chapter 73, O.S.L. 1999 (74 O.S. Supp. 2000, Section 1803.1), which relates to authority of Oklahoma Tourism and Recreation Commission to contract for management of state lodge; providing for codification; providing for noncodification; providing effective dates; and declaring an 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 4450 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in Sections 1 through 3 of this act:

A. "Quartz Mountain" means all properties held in fee title, lease or otherwise, including interests in land, real estate options or real estate contracts, held by or on behalf of the Oklahoma Tourism and Recreation Commission or the Oklahoma Tourism and Recreation Department that are known and designated as the Quartz Mountain Arts and Conference Center, Quartz Mountain Lodge, and Quartz Mountain State Park, including the golf course, the property known as Baldy Point, described as the N 1/2 of the NE 1/4 of Section 20, Township Five (5) North, Range Twenty (20) West of the Indian Meridian, and the SE 1/4 of the SE 1/4 of Section 17, Township Five (5) North, Range Twenty (20) West of the Indian Meridian, Greer County, Oklahoma, the property known as Devils Canyon, all buildings, improvements, appurtenances and associated lands, and all personal property including equipment, files, fixtures, furniture, and supplies that relate to the properties on the effective date of this section, as determined by an inventory on file as of the effective date of this section as required by law to

be updated no later than October 1, 2001, by inventory jointly conducted by the Oklahoma Tourism and Recreation Commission and the Oklahoma State Regents for Higher Education, and any similar personal property purchased or delivered for use at Quartz Mountain after the date of the inventory on file.

B. "Center" means the Quartz Mountain Arts and Conference Center and Nature Park created in this act.

C. "Board" or "board of trustees" means the board of trustees for the Quartz Mountain Arts and Conference Center and Nature Park created in this act.

D. "Commission" means the Oklahoma Tourism and Recreation Commission.

E. "Department" means the Oklahoma Tourism and Recreation Department.

F. "State Regents" means the Oklahoma State Regents for Higher Education.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4451 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a board of trustees to act as the administrative agency for the Quartz Mountain Arts and Conference Center and Nature Park ("Center"), which shall be created upon transfer of certain properties, rights, and obligations (collectively described as "Quartz Mountain") from the Oklahoma Tourism and Recreation Commission ("Commission") and the Oklahoma Tourism and Recreation Department ("Department") as provided in this act. The Quartz Mountain Arts and Conference Center and Nature Park shall be an integral part of The Oklahoma State System of Higher Education.

B. The board shall consist of nine (9) members, eight of whom shall be appointed by the Governor with the advice and consent of the Senate. The ninth member shall be the Executive Director of the

Oklahoma Tourism and Recreation Department or designee who shall serve as an ex-officio, voting member. The appointed members shall hold numbered positions with staggered terms to expire as provided in this section. Successors to the initial appointed board members shall serve seven-year terms that shall expire on June 30 of the seventh year following appointment. Positions one through four shall be members of the board of directors of an organization recognized as a nonprofit organization pursuant to 26 U.S.C., Section 501c(3) that operates a fine arts institute for high school students and a continuing education program for higher education faculty, elementary and secondary education teachers, and commercial artists. Positions five through seven shall be residents of Kiowa, Greer, or Jackson counties. Position No. 8 shall be a person with substantial natural resource or public land use experience. Position No. 9 shall be Executive Director of the Department.

C. The numbered positions and terms shall be as follows:

1. Position Nos. 1 and 2: the terms of office of two members shall expire on June 30, 2002, and each seven (7) years thereafter;

2. Position Nos. 3 and 4: the terms of office of two members shall expire on June 30, 2003, and each seven (7) years thereafter;

3. Position No. 5: the term of office of one member shall expire on June 30, 2004, and each seven (7) years thereafter;

4. Position No. 6: the term of office of one member shall expire on June 30, 2005, and each seven (7) years thereafter;

5. Position No. 7: the term of office of one member shall expire on June 30, 2006, and each seven (7) years thereafter;

6. Position No. 8: the term of office of one member shall expire on June 30, 2007, and each seven (7) years thereafter; and

7. Position No. 9: the term of office shall coincide with the member's tenure as executive director of the Department.

D. The Chancellor of Higher Education shall call the first meeting of the board. The board of trustees shall be a body

corporate and shall adopt and use an official seal. The board shall elect a chair, vice-chair, and secretary annually. The board shall comply with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. The board shall have the authority to submit a budget annually to the Oklahoma State Regents for Higher Education, administer monies allocated by the Oklahoma State Regents for Higher Education, select and employ a chief executive officer and other employees, and to expend all monies allocated to the Center as may be necessary to perform the duties and responsibilities of the board. The board shall be authorized to enter into contracts for taking title to real and personal property; leasing Center facilities for programs and institutes; accepting private funds for joint development of the Center as a cultural conference center, arts park and natural area preserve; and fulfilling of other duties and responsibilities of the board. Board members shall receive no compensation for service on the board but are to be reimbursed for reasonable and necessary expenses.

E. It is the intent of the Legislature that the State Regents shall provide staffing and travel reimbursement for staff and the board, in accordance with the State Travel Reimbursement Act, until the board is constituted, organized and funded.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4452 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Effective January 1, 2002, the properties defined as Quartz Mountain in Section 1 of this act are hereby transferred from the Oklahoma Tourism and Recreation Commission and the Oklahoma Tourism and Recreation Department to the board of trustees for the Quartz Mountain Arts and Conference Center and Nature Park.

B. All Department personnel, in both the classified and unclassified service of the State Merit System of Personnel Administration, who are assigned as of January 1, 2002, to Quartz

Mountain, including related liabilities for sick leave, annual leave, holidays, unemployment benefits and workers' compensation benefits accruing prior to January 1, 2002, to such personnel shall be transferred as of January 1, 2002, to the board. It is the intent of the Legislature that, to the extent possible, the board shall ensure that the employees retain pay and benefits, as much as possible, including longevity, dependent insurance benefits, seniority, rights and other privileges and benefits. Notwithstanding the provisions of the Oklahoma Personnel Act, Department employees assigned to Quartz Mountain on January 1, 2002, shall have the right, at the effective date of January 1, 2002, and not thereafter, to fill a budgeted vacancy in the classified service of the Parks Division in the Department or to fill a budgeted vacancy in the unclassified service in the Golf or Resorts Divisions of the Department, if such employee is qualified. Additionally, filling of vacancies shall be based on seniority order with the State of Oklahoma.

C. Appropriate conveyances and other documents shall be executed by January 1, 2002, to effectuate the transfer of Quartz Mountain.

D. The State Auditor and Inspector shall determine the amount of funds from available budgetary resources for Quartz Mountain, including any appropriated funds, revolving funds, or sinking funds, that should be transferred on January 1, 2002, from the Department and Commission to the State Regents to continue operation of the Center for the fiscal year ending June 30, 2002, and shall determine the amount that should be reserved to the Department for payment of obligations incurred prior to January 1, 2002. The State Auditor shall consider relevant funding and expenditure history and projected expenditures and expenses related to Quartz Mountain and available budgetary resources for Quartz Mountain in determining the amount to be transferred. The Director of the Office of State

Finance is authorized and directed to coordinate and administer the funds transfer. The funds transferred to the State Regents shall not be subject to any budgetary limits that may have attached to the funds when the funds were appropriated to the Department. From July 1, 2001, through December 31, 2001, the Department shall not spend or encumber more than the funds budgeted for that period for Quartz Mountain without approval of the State Auditor and Inspector. Any extraordinary costs incurred by the State Auditor in performing the review may be subtracted from the amount transferred on January 1, 2002, to the State Regents and paid to the State Auditor.

E. The State Regents may establish appropriate funds and accounts, including a revolving fund in the Office of State Finance for servicing the fiscal operations of the Center. Such funds and accounts shall be subject to the direct supervision, management and control of the board of trustees for the Center created in this act.

F. 1. An employee transferred pursuant to the provisions of this act who is a member of the Oklahoma Public Employees Retirement System or the Oklahoma Law Enforcement Retirement System may elect to remain a member of the applicable system or may elect to become a member of the Teachers' Retirement System of Oklahoma. The employee shall file an election on a form prescribed for that purpose with the applicable system not later than January 15, 2002.

2. If an employee files an election to remain in the Oklahoma Public Employees Retirement System or the Oklahoma Law Enforcement Retirement System, the board of trustees shall pay the required employer contributions applicable to the participating employers pursuant to Section 920 of Title 74 of the Oklahoma Statutes or Section 2-304 of Title 47 of the Oklahoma Statutes. The employee shall continue to pay employee contributions as required by law.

3. If the employee fails to file an election by January 15, 2002, the employee shall become a member of the Teachers' Retirement System of Oklahoma.

4. Employees who become members of the Teachers' Retirement System of Oklahoma shall acquire service credit in the Teachers' Retirement System pursuant to the provisions of subsection Q of Section 17-116.2 of Title 70 of the Oklahoma Statutes and shall have all service credit with the Oklahoma Public Employees Retirement System canceled. The board of trustees shall make required contributions pursuant to Section 17-108.1 of Title 70 of the Oklahoma Statutes and the employee shall make required contributions imposed pursuant to Section 17-116.2 of Title 70 of the Oklahoma Statutes. The board of trustees and the employees shall be subject to all requirements of the provisions of Sections 17-101 et seq. of Title 70 of the Oklahoma Statutes governing the Teachers' Retirement System of Oklahoma.

5. Any employee who is employed by the board after January 1, 2002, and who is otherwise eligible for membership in the Oklahoma Teacher's Retirement System or the Oklahoma Law Enforcement Retirement System shall be enrolled during employment by the board of trustees in the Oklahoma Teacher's Retirement System or the Oklahoma Law Enforcement Retirement System, as appropriate.

G. The board shall not be responsible for any claims arising under the Governmental Tort Claims Act accrued prior to January 1, 2002, claims arising from any other actions accrued prior to January 1, 2002, or tort claims arising prior to January 1, 2002, for which no claim has accrued upon the date of transfer. The board shall not be responsible for any claims arising out of construction begun before January 1, 2002, at Quartz Mountain.

H. 1. The board shall succeed to any contractual rights and responsibilities the Department or the Commission has incurred on behalf of Quartz Mountain, except as provided in subsection G of this section.

2. The board may enter into one or more contracts for management services of the Center. The duties and benefits arising

under any contract for management services of any part of Quartz Mountain entered into by the Commission that is in effect on January 1, 2002, shall be assigned to the board. The contract may be renewable at the option of the board but not to exceed a cumulative period of fifty (50) years.

3. The Department and the Commission shall execute all necessary documents to memorialize the assignment to the board all rights, responsibilities, and obligations under any and all contracts the Department or the Commission has entered into relating to operation of any part of Quartz Mountain, including the golf course, as provided in this section. The board shall execute any documents necessary to memorialize acceptance of such assignment. In the absence of memorializing documents or conveyances, the transfers including all the assignments shall occur by operation of law.

I. The rules of the Commission relating to the operation of Quartz Mountain, such as traffic, fees, and other like matters, that are in effect on January 1, 2002, shall be enforceable by the board until the board establishes rules or until January 1,2003, whichever occurs earlier. The board shall be exempt from the provisions of Articles I and II of the Administrative Procedures Act.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 1811.4, is amended to read as follows:

Section 1811.4 A. "State Capitol Park" shall consist of all portions of the State Capitol grounds and within such boundaries as are located in the State Capitol Complex, ~~to include~~ including the Governor's Mansion and all properties within the public right-of-way along Lincoln Boulevard north from the north boundary line of Northeast 13th Street to the south boundary line of Northeast 28th Street and along Business Route 66, known as Northeast 23rd Street, from the east edge of Santa Fe Street east to the west edge of Kelley Avenue in Oklahoma City, Oklahoma, as designated on the

amended plat filed in the office of the Secretary of State as File Number 155 in the State Property Records.

B. The ~~Oklahoma Tourism and Recreation Commission~~ Department of Central Services shall be responsible for the maintenance and operation of the State Capitol Park.

C. The ~~Commission~~ Department of Central Services may contract with the Oklahoma Capitol Improvement Authority, the Oklahoma Department of Transportation, ~~the Office of Public Affairs,~~ the City of Oklahoma City, or any other entity for the purpose of landscaping, beautification, capital improvement, operation, and maintenance of the State Capitol Park.

SECTION 5. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Positions and incumbents of the Oklahoma Tourism and Recreation Department who are assigned to perform the landscaping maintenance for the Governor's mansion and who are in the classified service of the State Merit System of Personnel Administration shall be transferred to the Department of Central Services without change or loss of pay, seniority, rights, privileges or benefits.

SECTION 6. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The State Auditor and Inspector shall determine the amount of funds from available budgetary resources for the State Capitol Park, including any appropriated funds, revolving funds, or sinking funds, that should be transferred on July 1, 2001, from the Department and Commission to the Department of Central Services to continue operation of the State Capitol Park for the fiscal year ending June 30, 2002, and shall determine the amount that should be reserved to the Department for payment of obligations incurred prior to July 1, 2001. The State Auditor shall consider relevant funding and expenditure history and projected expenditures and expenses related to the State Capitol Park and available budgetary resources for the

State Capitol Park in determining the amount to be transferred. The Director of the Office of State Finance is authorized and directed to coordinate and administer the funds transfer. The funds transferred to the Department of Central Services shall not be subject to any budgetary limits that may have attached to the funds when the funds were appropriated to the Department.

SECTION 7. REPEALER Section 2, Chapter 166, O.S.L. 1998, as amended by Section 1, Chapter 73, O.S.L. 1999 (74 O.S. Supp. 2000, Section 1803.1), is hereby repealed.

SECTION 8. Sections 4 and 5 of this act shall become effective July 1, 2001.

SECTION 9. Section 7 of this act shall become effective January 1, 2002.

SECTION 10. 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.

48-1-1677 SB 6/12/2015 3:16:00 AM