

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1190

By: Mitchell and Bonny of the  
House

and

Morgan and Robinson of the  
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Department of Mental Health and Substance Abuse Services; authorizing creation of a trust; providing for transfer of property to trust; providing for management of trust property; amending 43A O.S. 2001, Sections 2-104, as amended by Section 6, Chapter 488, O.S.L. 2002, 2-106, as amended by Section 6 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, 2-107 and 2-306 (43A O.S. Supp. 2002, Section 2-104), which relate to operations of the Department of Mental Health and Substance Abuse Services; restricting type of property which Board may declare surplus or sell; modifying type of proceeds which may be deposited in certain fund; updating name of agency; requiring Department of Central Services to provide certain assistance to Department of Mental Health and Substance Abuse Services; amending 60 O.S. 2001, Section 175.47, which relates to the rule against perpetuities; creating additional exception to the rule; providing for codification; and providing an effective date.

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 2-111 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. 1. The Board of Mental Health and Substance Abuse Services is hereby authorized and directed to create a trust into which all real property held by or for the benefit of the Department of Mental Health and Substance Abuse Services shall be transferred.

2. The trust shall provide that:

- a. the property placed into the trust may never be sold but shall be held in perpetuity for the sole benefit of the Department, and
- b. the property held by the trust which is not needed for use by the Department may be leased or rented to others and all income received from such leases or rentals shall be payable to the Department for use by the Department to fulfill the purposes of the Department.

B. Upon the creation of the trust authorized in subsection A of this section, the Department of Central Services is directed to provide all necessary assistance to the Department of Mental Health and Substance Abuse Services to identify and transfer all property held by or for the benefit of the Department of Mental Health and Substance Abuse Services to the trust. Except as provided in subsection C of this section, the Department of Central Services is authorized and directed to provide all requested assistance to the Department of Mental Health and Substance Abuse Services in leasing property placed in such trust.

C. The Commissioners of the Land Office are authorized and directed to provide all requested assistance to the Department of Mental Health and Substance Abuse Services in leasing mineral interests placed in such trust.

SECTION 2. AMENDATORY 43A O.S. 2001, Section 2-104, as amended by Section 6, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 2-104), is amended to read as follows:

Section 2-104. A. The Board of Mental Health and Substance Abuse Services is authorized to discontinue farm operations or any portion of the farm operations at any time it feels it is in the best interest of the Department of Mental Health and Substance Abuse Services and this state.

B. The Board may declare equipment ~~and land~~ which ~~are~~ is surplus to the needs of the Department to the Department of Central Services. The Department of Central Services shall dispose of ~~these~~ the surpluses as provided by law.

C. The Department of Central Services shall be the purchasing agency for all facilities for which appropriations are made in the Mental Health Law, but shall not have authority to determine the propriety of purchases of institutions over which the Department of Central Services is not the controlling entity.

D. The Board is authorized to spend funds for the development of recreational facilities on state-owned land outside the facility grounds.

SECTION 3. AMENDATORY 43A O.S. 2001, Section 2-106, as amended by Section 6 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 2-106. A. 1. The Board of Mental Health and Substance Abuse Services shall accept, hold in trust and authorize the use of any grant or devise of land, or any donation or bequest of money, or other personal property made to the Department of Mental Health and Substance Abuse Services, or to any institution therein, so long as the terms of the grant, donation, bequest, gift, or will are carried out.

2. The Board may invest and reinvest any funds and may lease ~~or~~ ~~sell~~ any real or personal property, may sell any personal property and may invest the proceeds, for the benefit of the Department or any institution therein unless prevented by the terms of the grant, donation, bequest, gift or will.

B. The Board may lease any property owned or held in trust to any other state agency, political subdivision, federal agency, county, municipality or a nonprofit organization for a period not to

exceed fifty (50) years. An original lease may be for a period not to exceed ten (10) years with up to four ten-year options.

C. The Board must annually account to the State Auditor and Inspector for all monies or property received or expended by virtue of this section ~~which.~~ The account shall state ~~the:~~

1. The source of the monies or property received with the actual date of its receipt, ~~the;~~

2. The particular use or place for which it was expended, ~~the;~~  
and

3. The balance on hand showing the place of deposit of the unexpended balance.

SECTION 4. AMENDATORY 43A O.S. 2001, Section 2-107, is amended to read as follows:

Section 2-107. A. 1. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Capital Outlay Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of income as provided in this section.

2. All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and may be budgeted and expended by the Department ~~of Mental Health and Substance Abuse Services~~ for the purposes described in this section. Expenditures from ~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. On and after July 1, 1988, no easement, right-of-way, oil and gas lease or surface lease on any land used or occupied by any institution, under the jurisdiction of the Board of Mental Health and Substance Abuse Services, shall be granted or conveyed without the approval of the Board; ~~and all.~~ All monies hereafter received or derived ~~therefrom~~ from such easements, rights-of-way and leases,

including, but not limited to, rentals and royalties for leases and from sale of ~~land and~~ equipment, shall be deposited in the Capital Outlay Fund of the Department of Mental Health and Substance Abuse Services and used by the Board for capital improvement at any Department of Mental Health and Substance Abuse Services facility, except as otherwise provided by the Legislature.

SECTION 5. AMENDATORY 43A O.S. 2001, Section 2-306, is amended to read as follows:

Section 2-306. A. The ~~Office of Public Affairs~~ Department of Central Services shall be the purchasing agent for each institution in the Department of Mental Health and Substance Abuse Services, but in other matters has no governing power or control of ~~said the~~ institutions. In other matters, the Department of Mental Health and Substance Abuse Services has sole and exclusive control of institutions of the Department when such institutions deal with the care and treatment of mentally ill persons.

B. The Department of Central Services shall provide all necessary assistance to the Department of Mental Health and Substance Abuse Services in transferring property to a trust created pursuant to Section 1 of this act.

SECTION 6. AMENDATORY 60 O.S. 2001, Section 175.47, is amended to read as follows:

Section 175.47 ~~The~~ A. Except as otherwise provided by this section, the absolute power of alienation of real and personal property, or either of them, shall not be suspended by any limitations or conditions whatever for a longer period than during the continuance of a life or lives of the beneficiaries in being at the creation of the estate and twenty-one (21) years thereafter, ~~except.~~

B. The provisions of this section shall not apply when property is given, granted, bequeathed, or devised to ~~a~~ :

1. A charitable use ~~or to literary,~~

2. Literary, educational, scientific, religious, or charitable corporations for their sole use and benefit, ~~or to any;~~

3. Any cemetery corporation, society or association, ~~nor shall this section apply to gifts, grants, devises, or bequests;~~

4. The Department of Mental Health and Substance Abuse Services as provided in Section 1 of this act; or

5. Gifts absolute, limited, or in trust, for the advancement of medical science to an incorporated state society of physicians and surgeons.

SECTION 7. This act shall become effective November 1, 2003.

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