STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1353 By: Coleman

COMMITTEE SUBSTITUTE

An Act relating to tourism and recreation; amending 74 O.S. 2001, Section 1847.1, as last amended by Section 7, Chapter 343, O.S.L. 2002 (74 O.S. Supp. 2002, Section 1847.1), which relates to the powers of the Oklahoma Tourism and Recreation Commission; authorizing the Commission to charge a park entrance fee; requiring an annual report; directing revenues from park entrance fees be used for certain environmental improvement bonds; allowing revenue to be used for other purposes upon retirement of bond; amending 74 O.S. 2001, Section 1863, as amended by Section 5, Chapter 197, O.S.L. 2002 (74 O.S. Supp. 2002, Section 1863), which relates to bonds; deleting prohibition on charging park entrance fees; authorizing the Commission to issue bonds for certain environmental improvements; providing for codification; 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. 2001, Section 1847.1, as last amended by Section 7, Chapter 343, O.S.L. 2002 (74 O.S. Supp. 2002, Section 1847.1), is amended to read as follows:

Section 1847.1 A. The Oklahoma Tourism and Recreation Commission is granted the additional powers herein given it for the purpose of operating, maintaining, extending and improving state parks in the State of Oklahoma, including specifically all parks and park and recreational properties now owned or leased by the state or by the Commission together with all additions which may be made thereto and all additional park and recreational properties which may be acquired hereafter by the Commission and by the state.

The Commission shall have and is hereby authorized to exercise the following powers, rights and privileges:

1. To have the exclusive possession and control of, and to control, operate and maintain for the benefit of the people of the State of Oklahoma all state parks and all lands and other properties now or hereafter owned or leased by the state or Commission for park or recreational purposes;

2. To acquire by purchase, lease, gift, or in any other manner and to maintain, use and operate any and all property, real, personal or mixed, necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this act. Title to all such property shall be vested in the State of Oklahoma, although such property is sometimes herein referred to as property "of the Commission". The power of condemnation herein granted shall be exercised in the manner provided by the general laws of the state for the condemnation of property by the state;

3. To acquire real property by condemnation only when the Attorney General or other counsel deems it an appropriate means of clearing title from willing or unavailable sellers;

4. Subject to the provisions of this act, from time to time to lease, without restriction as to term, any property which said Commission shall determine advisable to more fully carry into effect the duties and powers of said Commission;

5. To acquire, construct, extend, improve, maintain and operate any and all facilities of all kinds which in the judgment of the Commission will provide recreational or other facilities for the benefit of the public, or which are necessary or convenient to the exercise of the powers of the Commission;

6. To sue and be sued;

7. To adopt, use and alter an official seal;

8. To make bylaws for the management and regulation of its affairs;

9. To appoint officers, agents and employees and prescribe their duties and to fix their compensation;

10. To make such contracts and execute such instruments as in the judgment of the Commission are necessary or convenient to the exercise of the powers conferred upon it by this act;

11. To prescribe and enforce rules for the use of all recreational and other facilities and properties of the Commission, including the restriction or prohibition of the use of firearms, the inspection of boats, the issuance of permits for the operation of watercraft of all kinds, the charging and collection of fees for the inspection and for the operation of such craft, prescribing the type, style, location and equipment of all wharves, docks and anchorages, pavilions, restaurants and other structures or buildings which may be constructed along shores or upon the waters of any body of water or upon other property controlled by the Commission and providing for the licensing, inspection and supervision of same, and granting and imposing charges for permits and for all commercial uses or purposes to which any of the properties of the Commission or any structures or buildings located on property of the Commission may be used;

12. To prescribe and collect reasonable park entrance fees and rates and fees pursuant to the provisions of this section for the services, facilities and commodities rendered by all property of the Commission.

a. The Commission may establish overnight entrance fees for any or all parks and rates for rooms at the state lodges and cabins, for recreational activities, for recreational vehicles and camping sites, and for community facilities under control of the Commission. The method whereby the rates are determined shall be promulgated pursuant to Article I of the Administrative Procedures Act. At least twenty (20) days prior to the adoption or approval of any rate changes by the Commission, the Department shall submit

a copy of such proposed rates, for informational purposes, to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate. Any change in such rates during the year or when the Legislature is not in session shall be reported in writing to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate within five (5) business days of such Commission action.

b. The Commission may establish maximum charges for all activities at state-owned golf courses. The charges may vary among the different golf courses according to the practices of the golf industry. The method whereby the maximum charges are determined shall be in accordance with rules promulgated pursuant to Article I of the Administrative Procedures Act. At least twenty (20) days prior to the adoption or approval of any rate changes by the Commission, the Oklahoma Tourism and Recreation Department shall submit a copy of such proposed charges, for informational purposes, to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate.

c. Fees shall be promulgated pursuant to Article I of the Administrative Procedures Act.

d. The Commission shall prepare an annual report of the attendance figures at each park based on the collection of park entrance fees. The report shall be submitted to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate;

13. The Commission may erect cabins and support facilities on any land under its control. The Commission may operate or lease cabins, lodges, restaurants and other facilities and improvements for the public making use of the recreational facilities surrounding such improvements;

14. To develop and implement a pay incentive plan for employees of the Division of Parks, Division of Lodges, Golf Operations and Oklahoma Today Magazine. Such incentive pay shall not be included in an employee's base salary, and shall be based on the goals and eligibility established by the Commission on an annual basis. Such pay incentive shall not exceed ten percent (10%) of each eligible employee's salary. Such pay incentive shall not exceed the total change in improved financial performance for each facility over the previous fiscal year. Such compensation shall not be subject to the requirements of Section 840-2.17 of this title. The Commission shall promulgate rules for the implementation of such plan;

15. To authorize any division to sell advertising in any of the division’s publications, on division property on which advertising is sold in the tourism industry, or on its website, provided that such advertising shall be approved by the Division Director or designee prior to acceptance for publication. The sale of advertising and negotiation of rates for the advertising shall not be subject to the Central Purchasing Act and the Administrative Procedures Act; and

16. To authorize the Executive Director to enter into leases, grant easements and execute such instruments as in the judgment of the Commission are necessary or convenient to the exercise of those powers and duties of the Commission pursuant to the Oklahoma Tourism and Recreation Act; provided, the Executive Director shall provide a monthly report to the Commission of actions taken as a result of such delegation.

B. All fees, licenses and other charges shall be posted in a convenient place in each park. Everyone using any of the facilities of said park shall be charged the same fees, licenses and every other charge except:

1. Residents of this state sixty-two (62) years of age and over and their spouses, and nonresidents sixty-two (62) years of age and over and their spouses. The Commission may promulgate rules establishing different fees for residents and nonresidents specified in this paragraph. Fees may reflect the seasonal usage of the parks and facilities and/or promotional purposes and goals. Identification may be established by presentation of the state ~~driver's~~ driver license, state license for identification only, birth certificate of such persons or any other form of identification authorized by the Commission;

2. Individuals who have been certified as totally disabled under state or federal law and their spouses will be entitled to a fifty percent (50%) reduction which shall apply to recreation use facilities;

3. Children's groups, volunteer groups as specified by the Commission, or governmental entities that provide beneficial services at the facility for which the fee may be reduced or waived. The failure to collect such fees, licenses and other charges shall subject the employees of the Commission to a fine of Twenty-five Dollars ($25.00) for each and every violation; and

4. Special discount rates as authorized in paragraphs 1 and 2 of this subsection may be waived for subject individuals who are members of a group being provided a special group rate in accordance with Section 1834 of this title.

C. The Commission shall have the authority to implement an incentive program to improve private concession maintenance within properties under the jurisdiction of the Commission. The intent of the incentive program is to encourage concessionaires to make or

maintain the improvements that they own or operate throughout the duration of their ownership or leasehold interest. The Commission shall promulgate rules for the implementation of the program.

D. The Oklahoma Tourism and Recreation Commission shall have authority to transfer to any city, county, or other agency of government, which is a willing recipient, its interest in real and personal property owned by the State of Oklahoma or the Oklahoma Tourism and Recreation Department and operated and maintained under the jurisdiction of the Commission. Such real estate transfers shall not be subject to ~~Sections~~ Section 456.7 or 129.4 of this title or any other provision of state law relative to disposition of real estate. Such real estate transfers shall be subject to the following provisions:

1. The city, county or other agency recipient shall agree to accept the interest transferred by the state, accept responsibility for the property, and use the real estate for public recreation purposes in accordance with the Land and Water Conservation Fund Act of 1965, Public Law 88-578, 78 STAT 897;

2. The city, county or other agency recipient shall not dispose of the property unless substitute property is provided that is equivalent in value and usefulness;

3. The Commission shall transfer the property to the recipient by quit claim deed or other instrument as may be appropriate;

4. The consideration for the property transfer shall be the agreement of the recipient to continue public recreation use of the property and the recipient's agreement to manage the property without operating subsidy from the Oklahoma Tourism and Recreation Department or Commission;

5. The real estate transfer shall be subject to all existing easements and reservations of record; and

6. The Oklahoma Tourism and Recreation Commission shall provide written notice to the President Pro Tempore of the Senate and the

Speaker of the House of Representatives detailing any such proposed transfer agreement to be entered into pursuant to the provisions of this section thirty (30) days prior to the first day of the legislative session. The Commission shall approve such proposed transfer during the legislative session to be effective at the beginning of the next fiscal year, contingent upon the Legislature's approval of the proposed transfer.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1852.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

All monies derived from charging an entrance fee to any or all of the state parks shall be expended exclusively for the retirement of any bonds issued for improvements made to the water lines, waste water lagoons, and utility upgrades in several parks and resorts under the control and supervision of the Oklahoma Tourism and Recreation Department. When all such bonds now issued are retired, the income from each park shall be expended exclusively for capital improvements to the state park or recreational area from which the fees are collected.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 1863, as amended by Section 5, Chapter 197, O.S.L. 2002 (74 O.S. Supp. 2002, Section 1863), is amended to read as follows:

Section 1863. A. The Oklahoma Tourism and Recreation Commission shall prescribe and collect reasonable park entrance fees and rates, fees, tolls or charges for the services, facilities and commodities rendered by all property of the Commission, the revenues a portion of which may be pledged to the payment of bonds issued hereunder, and shall revise such rates, fees, tolls or charges from time to time whenever necessary to ensure that the revenues to be derived therefrom shall be fully sufficient to pay principal of and interest on such bonds. ~~The Commission shall have no authority to assess entrance fees nor any other fees not authorized by the~~

~~Legislature.~~ The gross revenues derived by the Commission from the operation of any part or parts of the properties of the Commission, but no revenues derived by the Commission through legislative appropriation or from sources other than operation of the properties of the Commission, may be pledged to the payment of such principal and interest.

B. The Commission is hereby authorized to construct improvements in several parks and authorize the issuance of one issue of bonds for all such improvements, and to pledge for the payment of such bonds and the interest thereon, revenues derived by the Commission from the operation of any or all of the parks for the construction of improvements in which any such consolidated bond issue has been authorized.

C. The Commission is further authorized to construct state-of-the-art tourism information centers on or near interstate highways, including but not limited to entry points near the state's borders and major metropolitan areas, and authorize the issuance of one issue of bonds for all such construction projects, and to pledge for the payment of such bonds and the interest thereon, revenues derived by the Commission from the lease or operation of any or all of the tourism information centers, for the construction of the tourism information centers in which any such consolidated bond issue has been authorized.

D. Any revenues which may be received by the Commission for the use of such buildings or improvements, in whole or in part, shall be regarded as all other revenues of the Commission and shall be subject to be pledged to the payment of bonds issued hereunder. Each bond shall recite in substance that such bond and the interest thereon is payable solely from the revenues pledged to the payment thereof, and that such bond does not constitute a debt of the Commission or of the state within the meaning of any constitutional or statutory limitation.

E. The Commission is hereby authorized to construct improvements to the water lines, waste water lagoons, and utility upgrades in several parks and resorts and authorize the issuance of one issue of bonds for all such improvements, and to pledge for the payment of such bonds and the interest thereon, revenues derived by the Commission from entrance fees at any or all of the parks for the construction of improvements in which any such consolidated bond issue has been authorized.

SECTION 4. This act shall become effective July 1, 2003.

SECTION 5. 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.

49-1-15112 JB 02/19/03