STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1713 By: Benge of the House

and

Robinson of the Senate

COMMITTEE SUBSTITUTE

An Act relating to medical care for indigent persons; creating the Oklahoma Community Hospitals Public Trust Authorities Act; short title; defining terms; providing purpose; providing procedures; requiring certain creation documents; providing for contents; providing for public trust membership; specifying powers and duties; limiting certain actions; requiring certain actions; requiring certain qualifications; providing for compensation; prohibiting certain interest; requiring certain approval and compliance; requiring certain audits and reports; authorizing bonds; providing procedures; providing for liability; providing certain limits; prohibiting certain liability; providing for termination; providing for construction of section; providing for interest; requiring certain reports; providing for requirements; providing for codification; 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 3250.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Community Hospitals Public Trust Authorities Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3250.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Community Hospitals Public Trust Authorities Act:

1. “Health care system” means a system providing inpatient and/or outpatient health care, trauma care, or emergency care services that is not limited to a specific facility or modality of health care;

2. “Hospital” means a hospital as such term is defined by Section 1-701 of Title 63 of the Oklahoma Statutes;

3. “Hospital district” means a designated geographical area established by a community hospitals public trust authority and served by the participating health care system in the district;

4. “Medically indigent person” means a person requiring medically necessary hospital or other health care services for the person or the dependents of the person, who has no public or private third-party coverage, and whose personal resources are insufficient to provide for hospital or other health care services;

5. “Participating health care system” means a health care system which expends at least Fifty Thousand Dollars ($50,000.00) annually providing care for medically indigent persons located within a hospital district; and

6. “Public trust authority” means a community hospitals public trust authority establishing a hospital district pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3250.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. The Oklahoma Legislature finds that the delivery of health care services to the public including medically indigent persons will be enhanced through the establishment of community hospitals public trust authorities and the creation of hospital districts pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act.

2. The purpose of the Oklahoma Community Hospitals Public Trust Authorities Act is to provide maximum utilization and efficient administration in delivering health care services to the public including medically indigent persons residing within a hospital district served by a community hospitals public trust authority.

B. A hospital or two or more hospitals located within a county or adjacent counties may jointly or separately create a public trust for the purposes of providing funding and coordination for the delivery of health care to the public including medically indigent persons residing in a designated hospital district. The county or counties in which the hospital district is established must approve and shall be the beneficiary of the public trust pursuant to the provisions of Sections 176 and 177 of Title 60 of the Oklahoma Statutes.

C. The instrument creating the public trust shall provide at a minimum:

1. The reasons for organizing and constituting a hospital district, including a statement that the trustees will comply with the provisions of Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes and the Oklahoma Community Hospitals Public Trust Authorities Act;

2. The names and corporate headquarters of the community hospitals and other health care systems and each hospital participating in the public trust;

3. A concise description of the geographic boundaries to be embraced within the proposed district;

4. A statement that the proposed hospital district is embracing only those lands within the proposed boundaries specified by paragraph 3 of this subsection which can reasonably and economically be served in the foreseeable future;

5. The general patient loads of each hospital and the anticipated number of medically indigent persons for whom services will be provided;

6. For the appointment, succession, powers, duties, terms and manner of removal of trustees; and

7. For the appointment of at least five trustees as follows:

a. the chief executive officers of participating health care systems or the chief executive officers of the participating hospitals,

b. one county commissioner from each county which the hospital district embraces, appointed by the commissioners of each such county, if such county or counties are the beneficiaries of the public trust, and

c. one member appointed by the Governor who has no direct affiliation with any participating health care system or participating hospital; provided, that if pursuant to the provisions of this paragraph the Board will have less than five members, the Governor shall appoint such additional members.

D. Any public trust established within the area subject to the jurisdiction of the Community Hospitals Authority created under Section 3240.3 of Title 63 of the Oklahoma Statutes or successor authority shall deposit all funds received pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act into the Community Hospitals Authority Revolving Fund established pursuant to Section 3240.8 of Title 63 of the Oklahoma Statutes.

E. 1. Each hospital district shall be a governmental entity and a body politic and corporate with powers of government and with authority to exercise the rights, privileges and functions specified

by the Oklahoma Community Hospitals Public Trust Authorities Act and Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes.

2. Nothing in this subsection shall be construed as authorizing any hospital district to levy or collect taxes or to pledge the credit of the state or any subdivision of this state.

F. Each public trust authority established pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act shall:

1. Act as a vehicle for securing funds for education, indigent medical care, trauma, emergency and other health care services and graduate medical education within the hospital district served by a public trust authority and for graduate medical education, if a medical school is within the hospital district served by a public trust authority; and

2. Coordinate the delivery and efficiency of health care services within the hospital district established pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act.

G. No appropriation of state funds shall be made to any public trust authority. Each public trust authority may receive the funds it may be entitled to receive pursuant to the Medicaid program as administered by the Oklahoma Health Care Authority.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3250.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

Hospitals:

1. Shall be licensed by the State Department of Health and shall meet the standards, requirements and essentials of the Joint Commission of Accreditation of Health Care Organizations and the American Osteopathic Association. Provided, the State Commissioner of Health may waive any such standards, requirements and essentials as the Commissioner deems necessary; and

2. May provide services and receive payments therefor pursuant to Titles XVIII and XIX of the federal Social Security Act, and may participate in other federal medical programs.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3250.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Each member of a public trust authority shall be a resident of the state and a registered voter.

B. The members of a public trust authority shall serve without compensation but may be reimbursed for all actual and necessary travel expenses incurred in the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3250.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Each community hospitals public trust authority shall have the power and duty to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;

2. Adopt an official seal;

3. Annually appoint an executive director;

4. Sue and be sued;

5. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act;

6. Purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to discharge its duties and responsibilities or to implement the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act;

7. Accept grants from the United States of America, from other government entities, or from any corporation or agency created or designed by the United States or other government entity, and, in connection with any such grant, to enter into such agreements as the United States or such corporation or agency may require;

8. Accept grants and gifts from private individuals and organizations;

9. Issue bonds and other evidences of indebtedness, and to secure the payment thereof by mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of its then-owned or after-acquired real or personal property, assets, franchises, or revenues;

10. Become a member of other cooperatives, joint ventures, partnerships, corporations or other legal entities or to own stock therein;

11. Conduct its business and exercise its powers within or without this state;

12. Assess fees, levies, assessment, or charges upon any hospital or health system located within the geographical boundaries of its hospital district;

13. Appoint officers, agents and employees, prescribe their duties and fix their compensation;

14. Engage in long-term planning for the operation and management of a public trust authority;

15. Establish petty cash funds as needed and provide for appropriate accounting procedures and controls; and

16. Do all other things necessary and proper to implement the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act.

B. The time and place of the regular meetings and the manner in which special meetings may be called shall be set forth in the bylaws of each public trust authority.

C. Each public trust authority may appoint such officers, agents and employees, fix their compensation and term of office and the method in which they may be removed and delegate to them such of its powers and duties as it may deem proper.

D. No director or officer of a public trust authority shall vote on any issue before the authority in which such director or officer has a direct interest in any contract or for any work by or for the public trust authority.

E. As a condition precedent, each public trust authority must receive approval from the Attorney General that the public trust is in the proper form.

F. A certified copy of the public trust agreement must be filed with the Secretary of State.

G. Each officer handling funds of the public trust shall furnish a good and sufficient fidelity bond in an amount and with surety as may be specified by the Oklahoma Central Purchasing Act. The cost of the bond shall be paid from funds of the public trust authority.

H. Each public trust established pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act shall not be amended without a two-thirds (2/3) vote of approval of the trustees of such trust.

I. The trustees of each public trust authority created pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act shall make and adopt bylaws for the due and orderly administration and regulation of the affairs of the public trust authority. All bylaws and amendments thereto of a public trust authority shall be submitted in writing to the Governor of this state and to the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate.

J. Each public trust authority shall comply with:

1. The annual budget provisions of the state requiring a balanced budget. A copy of the budget shall be submitted to the Governor and to the beneficiary of the public trust each year;

2. The Public Competitive Bidding Act of 1974;

3. The Oklahoma Open Records Act;

4. The Oklahoma Open Meeting Act; and

5. The provisions of Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes and the Community Hospitals Public Trust Authorities Act.

K. 1. Each public trust authority shall provide for complete financial audits on all accounts of the public trust authority and authorize periodic audits by an independent external auditing agency. Such audits shall be performed annually in a format approved by the State Auditor and Inspector. The audits shall be made in accordance with generally accepted auditing standards and government auditing standards. Financial statements shall be prepared in accordance with generally accepted accounting principles. Such audits shall be submitted to the State Auditor and Inspector and to the beneficiary of the public trust for review.

2. In addition to the audits specified by this subsection, the State Auditor and Inspector, whenever the State Auditor and Inspector deems it appropriate, and at least once each five (5) years, or upon receipt of a request to do so from the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives or the public trust authority shall conduct a special audit of the authority.

L. Each public trust authority shall be the regularly constituted authority of the beneficiary for the performance of the functions for which the public trust shall have been created.

M. 1. Except for acts of dishonesty, no trustee shall be charged personally with any liability whatsoever by reason of any

act or omission committed or suffered in the performance of such trust or in the operation of the trust property.

2. Except for acts of dishonesty, liability for any omission or obligation of the authority, in the execution of such trust, or in the operation of the trust, shall be subject to limits specified by The Governmental Tort Claims Act. Provided, a public trust authority shall not be covered by The Governmental Tort Claims Act.

3. In addition, the employees, agents, independent contractors and employees of independent contractors of the hospitals within the participating health care system shall not be covered by The Governmental Tort Claims Act.

4. In no event shall the state, county or municipality be construed to be or become liable for any act, omission or obligation of a trustee or of the public trust authority.

N. A public trust authority may be terminated by agreement of the trustees of this state; provided, that such trust shall not be terminated while there exists outstanding any contractual obligations chargeable against the trust property.

O. Compliance with the provisions of Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes and the Oklahoma Community Hospitals Public Trust Authorities Act by a public trust authority shall be and constitute a binding contract with the county or counties for the acceptance of the beneficial interest in the trust property by the designated beneficiary and the application of the proceeds of the trust property and its operation for the purposes, and in accordance with the stipulations, of the public trust instrument.

P. 1. A public trust authority shall have the power and duty to make and issue bonds and to pledge revenues of the public trust authority subject to the Oklahoma Bond Oversight and Reform Act. Nothing in the Oklahoma Community Hospitals Public Trust Authorities Act shall authorize the issuance of any bonds of a public trust

authority payable other than from revenues of the public trust authority.

2. Public trust authority revenue bonds issued under the provisions of this section shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any political subdivision, but such bonds shall be payable solely from the funds herein provided.

3. Such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the public trust authority shall be obligated to pay the same or the interest thereon except from the revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or the interest on such bonds.

4. The interest income derived from any obligation issued by a public trust authority shall be exempt from the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3250.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

Each community hospitals public trust authority shall submit an annual report to the beneficiary of the public trust, the Governor, the President Pro Tempore of the State Senate and the Speaker of the Oklahoma House of Representatives. Such report shall be submitted in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes, and shall include an account of the operations and actions of the authority and an accounting of all revenue received and disbursed by the authority for the previous fiscal year.

SECTION 8. 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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