

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2350

By: Bengé

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending Section 1, Chapter 432, O.S.L. 2003, Section 2, Chapter 432, O.S.L. 2003, Section 3, Chapter 432, O.S.L. 2003, Section 5, Chapter 432, O.S.L. 2003, Section 6, Chapter 432, O.S.L. 2003 and Section 8, Chapter 432, O.S.L. 2003 (63 O.S. Supp. 2003, Sections 3250.1, 3250.2, 3250.3, 3250.5, 3250.6 and 3250.8), which relate to community hospitals public trust authorities; modifying and adding powers and duties; adding definition; modifying procedures and requirements for form hospital districts and community hospital public trust authorities; clarifying language; modifying procedures and method for certain deposits and transfers of certain funds; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 432, O.S.L. 2003, (63 O.S. Supp. 2003, Section 3250.1), is amended to read as follows:

Section 3250.1 ~~This act~~ A. Sections 3250.1 through 3250.9 of this title shall be known and may be cited as the "Oklahoma Community Hospitals Public Trust Authorities Act".

B. 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 hospital 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 by hospital districts to the public including medically indigent persons, and to provide better access to supplemental Medicaid programs.

SECTION 2. AMENDATORY Section 2, Chapter 432, O.S.L. 2003 (63 O.S. Supp. 2003, Section 3250.2), is amended to read as follows:

Section 3250.2 As used in the Oklahoma Community Hospitals Public Trust Authorities Act:

1. "Community hospital" means a hospital that has a system of inpatient health care, trauma care, or emergency care and that is not primarily engaged in the care and treatment of patients with cardiac or orthopedic conditions or patients receiving a surgical procedure;

2. "Community hospital public trust authority" or "public trust" means a community hospital public trust authority establishing a hospital district pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act;

~~2.~~ 3. "Hospital" means a hospital as such term is defined by Section 1-701 of Title 63 of the Oklahoma Statutes and facilities within the definition of Section 2657 of Title 63 of the Oklahoma Statutes this title;

~~3.~~ 4. "Hospital district" means a designated geographical area established by a community hospital public trust authority; and

~~4.~~ 5. "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 insufficient or no public or private third-party coverage, and whose personal resources are insufficient to provide for hospital or other health care services.

SECTION 3. AMENDATORY Section 3, Chapter 432, O.S.L. 2003 (63 O.S. Supp. 2003, Section 3250.3), is amended to read as follows:

Section 3250.3 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 hospital 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 by hospital districts to the public including medically indigent persons, and to provide for supplemental Medicaid programs.~~

~~B. 1. A hospital or two~~ Two or more hospitals located within a county or adjacent counties or located within a county or adjacent counties and a municipality may jointly create a public trust for the purposes of:

- a. establishing a hospital district,
- b. accessing and providing funding for coordination of the delivery of health care to the public including but not limited to programs that contribute to serving the medically indigent,
- c. improving access to health care by the public,
- d. coordinating the development of new health services in the hospital district,
- e. considering various alternatives for integrating the services of the health care delivery system in the hospital district, and
- f. providing for and supplementing Medicaid programs.

2. ~~A~~ The hospitals creating the public trust must represent at least thirty percent (30%) of the licensed beds of all hospitals

located within the proposed hospital participating in the creation of a public trust district and each hospital must:

- a. expend during each of the most recent three (3) fiscal years have expended at least Fifty Thousand Dollars (\$50,000.00) annually providing care for medically indigent persons, and
- b. have a system of inpatient and/or outpatient health care, trauma care, or emergency care services that is not limited to a specific modality of health care be a community hospital, and
- c. be located within the same county or within a county that is immediately adjacent to each of the counties in which the other participating hospitals are located.

3. All hospitals in a hospital district shall be entitled to:

- a. receive notice of, and attend meetings of trustees of the community hospital public trust authority, but shall not be entitled to designate trustees or other representatives. Neither the participating hospital nor any of its representatives shall be counted for purposes of determining a quorum or be entitled to vote on any matter presented to the trustees for consideration or vote at any meeting,
- b. provide advice and recommendations to the trustees of the community hospital public trust authority, and
- c. designate a representative to participate on a nonvoting basis in meetings of the trustees to the extent permitted by the trustees.

4. The boundaries of a community hospital public trust authority ~~should~~ shall be coextensive with the boundaries of a county or ~~a group of member~~ the counties in which the hospitals participating in the creation of the public trust are located. A

hospital district shall not include geographic areas included in pre-existing hospital districts.

~~4.~~ 5. The county or counties ~~or the county or counties and municipality~~ in which a hospital district is established must approve and shall be the beneficiary or beneficiaries of the public trust pursuant to the provisions of Sections 176 and 177 of Title 60 of the Oklahoma Statutes. Any municipality in a hospital district may be a beneficiary of the public trust pursuant to the provisions of Sections 176 and 177 of Title 60 of the Oklahoma Statutes.

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

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

2. A statement that the public trust shall be separate and independent from the affairs of ~~the~~ each beneficiary in all matters or activities authorized by the written instrument creating the public trust;

3. The names and ~~corporate headquarters~~ addresses of each hospital located in the proposed hospital district;

4. The ~~general~~ number of licensed patient loads beds of each hospital within the proposed hospital district ~~and the anticipated number of medically indigent persons for whom medical services will be provided;~~

5. A concise description of the geographic boundaries ~~to be embraced within~~ of the proposed hospital district;

6. ~~A statement that the proposed hospital district is embracing only those lands within the proposed boundaries specified by paragraph 5 of this subsection which can reasonably and economically be served in the foreseeable future;~~

~~7. Assurance that all hospitals located within the hospital district which meet the eligibility criteria can participate in the public trust;~~

~~8. For the appointment, succession, powers, duties, terms and manner of removal of trustees;~~

~~9. 7.~~ For the appointment of at least five trustees as follows:

- a. the chief executive officers of the hospitals participating in the creation of the community hospital public trust authority or their designees and may include the chief executive officers of other hospitals located within the hospital district or their designees,
- b. (1) one ~~county commissioner or their~~ designee from each beneficiary county which the hospital district embraces, appointed by the commissioners of each such county, and  
(2) the chief administrative officer or his or her designee from a municipality in which the hospital district is situated, if such municipality is the beneficiary of the public trust, and
- c. one ~~member appointed by the Governor~~ trustee who has no direct affiliation with any hospital participating in the community hospital public trust authority who shall be appointed by the Governor; provided, that if pursuant to the provisions of this paragraph the Board will have less than five ~~members~~ trustees, the Governor shall appoint additional ~~members~~ trustees; and

~~10. 8.~~ The time and place of the regular meetings and the manner in which special meetings may be called. A community hospital public trust may change the time and place of regular

meetings in the manner provided in the Oklahoma Open Meeting Act. A community hospital public trust authority shall keep a complete record of all its proceedings.

~~D.~~ C. As a condition precedent to its creation, each community hospital public trust authority must receive approval from the Attorney General that the trust instrument creating the public trust is in the proper form.

~~E.~~ D. A certified copy of the public trust agreement must be filed with the Secretary of State and with the ~~court~~ county clerk of each beneficiary county and the clerk of each beneficiary municipality.

~~F.~~ E. 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.

SECTION 4. AMENDATORY Section 5, Chapter 432, O.S.L. 2003 (63 O.S. Supp. 2003, Section 3250.5), is amended to read as follows:

Section 3250.5 A. Each ~~member~~ trustee of a community hospital public trust authority shall be a resident of ~~the state~~ Oklahoma and a registered voter.

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

C. 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 community hospital public trust authority.

SECTION 5. AMENDATORY Section 6, Chapter 432, O.S.L. 2003 (63 O.S. Supp. 2003, Section 3250.6), is amended to read as follows:

Section 3250.6 A. 1. Each community hospital public trust authority established pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act shall be a governmental entity and a body politic and corporate with powers of government and with authority to establish and operate a hospital district and 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~~ the Oklahoma Community Hospitals Public Trust Authorities Act 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.

B. Each community hospital public trust authority shall have the power 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. Act as a vehicle for securing funds for education, indigent medical care, trauma care, emergency and other health care services;

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

5. Sue and be sued;

6. 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;

7. 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;

8. Accept grants and other funds from agencies of this state, other states and from the federal government and ~~the United States of America~~, from other ~~government~~ governmental entities, or from any corporation or agency created or designed by the ~~United States~~ federal government or other ~~government~~ governmental entity, and in connection with such grants or funding to enter into such agreements as the ~~United States~~ federal government or such corporation or agency may require;

9. Accept grants and gifts from private individuals and organizations and in connection with such grants or gifts, enter into such agreements not inconsistent with the purposes of the Oklahoma Community Hospitals Public Trust Authorities Act and the public trust as the private individuals or organizations may require;

~~10. Accept and make intergovernmental transfers authorized by state law. A hospital district may make intergovernmental transfers to the Oklahoma Health Care Authority to the extent permitted by state or federal law;~~

~~11.~~ 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;

~~12.~~ 11. Become a member of other cooperatives, joint ventures, partnerships, corporations or other legal entities or to own stock therein;

~~13.~~ 12. Conduct its business and exercise its powers ~~within in~~  
or ~~without this state~~ outside of Oklahoma;

~~14.~~ 13. Assess fees, levies, assessments, or charges upon and enforce the payment of such fees, levies, assessments or charges against any hospital located within the geographical boundaries of its hospital district and to remit such monies to the Oklahoma Health Care Authority for purposes of meeting the ~~state's~~ Oklahoma share for the supplemental Medicaid programs to the extent and manner authorized by federal law. The trustees may determine the methods, approaches and formulas to be used in making assessments, levies and charges. Fees, levies, assessments or charges may be enforced by a community hospital public trust authority through civil action brought in the district court in the county in which the ~~community hospital public trust authority~~ proposed to be charged is located;

~~15.~~ 14. Appoint officers, agents and employees, prescribe their duties and fix their compensation;

~~16.~~ 15. Engage in long-term planning for the operation and management of a community hospital public trust authority;

~~17.~~ 16. Establish petty cash funds as needed and provide for appropriate accounting procedures and controls; and

~~18.~~ 17. Do all other things necessary and proper to implement the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act.

C. No ~~director or officer~~ trustee of a community hospital public trust authority shall vote on any issue before the authority ~~in which such director or officer~~ the trustee has a direct interest ~~in~~ by virtue of any contract or ~~for~~ any work by or for the community hospital public trust authority.

D. The trustees of each community hospital 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 community hospital public trust authority. All bylaws and amendments thereto of a community hospital public trust authority shall be submitted in writing to each beneficiary of the community hospital public trust authority, the Governor of this state and to the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate for informational purposes, but the approval of such persons shall not be necessary.

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

F. Each community hospital 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 annually to the Governor and to each beneficiary of the community hospital public trust authority;

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.

G. 1. Each community hospital public trust authority shall provide for complete financial audits on all accounts of the community hospital 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~~ each beneficiary of the community hospital public trust authority 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~~ a beneficiary of a community hospital public trust authority, the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives or the community hospital public trust authority shall conduct a special audit of the authority. Such audit shall be paid from the funds of the community hospital public trust authority.

H. 1. Except for acts of dishonesty, no trustee of a community hospital public trust authority 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. A community hospital public trust authority established pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act shall be covered by The Governmental Tort Claims Act.

3. Officers, employees, agents, independent contractors and employees of independent contractors of hospitals participating in the hospital district shall not be covered by The Governmental Tort Claims Act. The provisions of this paragraph shall not affect the immunity provided to hospitals or to officers and employees of hospitals covered by Section 152 of Title 51 of the Oklahoma Statutes.

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 community hospital public trust authority.

I. A community hospital public trust authority may be terminated by agreement of the trustees ~~of this state~~ and in compliance with Section 180 of Title 60 of the Oklahoma Statutes; provided, that such community hospital public trust authority shall not be terminated while there exists any outstanding contractual obligations chargeable against the trust property.

J. 1. ~~Compliance~~ Acceptance of the beneficial interest in the trust property by the designated beneficiary shall result in a legally binding obligation of the community hospital public trust authority, enforceable by the beneficiary, to 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 ~~by a community hospital public trust authority shall be and constitute a binding contract with the county or counties and municipality beneficiaries for the acceptance of the beneficial interest in the trust property by the designated beneficiary and the application of~~ and to apply the proceeds of the trust property and its operation for the purposes, and in accordance with the stipulations, of the public trust instrument.

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

K. 1. A community hospital public trust authority shall have the power and duty to make and issue bonds and to pledge revenues of the community hospital 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 by a community hospital public trust authority

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

2. Community hospital public trust authority revenue bonds issued under the provisions of this subsection 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 community hospital 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 community hospital public trust authority shall be exempt from the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes.

SECTION 6. AMENDATORY Section 8, Chapter 432, O.S.L. 2003 (63 O.S. Supp. 2003, Section 3250.8), is amended to read as follows:

Section 3250.8 A. 1. There is hereby created in the State Treasury a revolving fund to be designated the "Medicaid Payment Reimbursement Fund".

2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of:

- a. all monies received by the Oklahoma Health Care Authority pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act and otherwise specified or authorized by law including but not limited to

monies received by the Authority from assessments levied on hospitals included in a hospital district, and

- b. interest attributable to investment of money in the fund.

3. All monies accruing to the credit of the fund are hereby appropriated and shall be expended by the Authority for services to Medicaid beneficiaries residing within or receiving services within the boundaries of the community hospitals public trust.

B. ~~Any~~ A public trust shall submit any monies received from any assessment levied on hospitals within a hospital district to the Oklahoma Health Care Authority for deposit into the Medicaid Payment Reimbursement Fund for purposes of providing the state matching funds for supplemental Medicaid programs pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act shall be submitted to the Oklahoma Health Care Authority for deposit into the Medicaid Payment Reimbursement Fund providing services and administration of the Medicaid programs that are subject to the federal medical assistance percentage in the hospital district created by the public trust.

C. The Oklahoma Health Care Authority shall transfer to the Medicaid Payment Reimbursement Fund any federal financial participation payment received by the Oklahoma Health Care Authority as a result of application of the proceeds of assessments levied on hospitals within a hospital district pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act and rules promulgated by the Oklahoma Health Care Authority pursuant to federal law and the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act.

D. 1. The Oklahoma Health Care Authority shall make Medicaid reimbursement payments to each community hospital public trust authority to the extent permitted by federal law and rules

promulgated by the Oklahoma Health Care Authority pursuant to federal law and the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act.

2. Each community hospital public trust authority established shall be limited to receipt of supplemental Medicaid program funds for items and services provided within its designated area boundary.

SECTION 7. 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.

49-2-8458

KSM

02/11/04