

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1490

By: Morgan, Gumm and
Littlefield of the Senate

and

Roberts, Boren and McClain
of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; creating the Lead-Impacted Communities Relocation Assistance Act; providing short title; stating legislative findings; authorizing the Department of Environmental Quality to make grants to certain state beneficiary public trusts; stating grant conditions; stating eligibility requirements for assistance; establishing criteria for renters and homeowners; prohibiting recipients from residing within certain area until certain time; providing assistance for certain moving expenses; requiring trust to deduct certain payments for remediation prior to determining purchase price for certain homes; providing for certain assistance for landlords of affected rental properties; prohibiting landlords from renting properties to certain persons until certain time; requiring trust to place restrictions on deeds to certain properties until certain time; providing for voluntary participation in assistance programs; stating purposes for certain trust funds; authorizing trust to utilize or dispose of certain real property; authorizing trust to establish appropriate procedures for applications by eligible persons; requiring trust to establish certain deadline for applications; authorizing trust to use grant funds for administration of program; authorizing trust to seek and expend funds from other sources for certain purposes; requiring trust to consult with the Department of Environmental Quality for certain purpose; subjecting trust to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act; restricting certain membership of trustees; requiring trustees to abstain in certain decisions; authorizing certain entities to enforce reoccupation restrictions; stating liability for violation; stating uses for certain funds relating to penalties; prohibiting creation of certain property rights or rights in action; prohibiting court jurisdiction to entertain certain actions; stating certain determinations made by trust shall not be subject to judicial review; authorizing the Department of Environmental Quality to contract with certain trust and substate planning district for certain approval; requiring State Department of Health to monitor blood

lead levels of children in certain affected areas; providing certain calculations for school district funding in certain affected areas; authorizing the Governor to accept certain beneficial interest on behalf of the state; providing for codification; providing for noncodification.

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 7601 of Title 10, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Lead-Impacted Communities Relocation Assistance Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7602 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Legislature recognizes that historic lead and zinc mining operations have caused severe environmental degradation in areas of this state. The Legislature further recognizes that this degradation has caused the United States Environmental Protection Agency to place large areas within the state, including entire municipalities, on its Superfund National Priorities List of the most seriously contaminated sites in the nation.

B. The Legislature finds that lead poses a unique threat to children six (6) years of age and younger. During this period of their development children are particularly vulnerable to neurological damage caused by lead exposure. The effects of this childhood exposure can continue throughout their lives.

C. The Legislature hereby finds and determines that, as shown by studies conducted by the State Department of Health and the United States Indian Health Service, children six (6) years of age and younger, living in the vicinity of these former mining areas, exhibit blood lead levels above the thresholds considered dangerous

to human health, and continued exposure of such children to lead constitutes a significant danger to the health of such children in the future. Further, the Legislature hereby determines a need exists to remedy the problem, by providing incentives for families with children six (6) years of age and younger to relocate outside the area of contamination.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7603 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Environmental Quality is hereby authorized to make grants, from monies appropriated for that purpose, to state beneficiary public trusts serving communities affected by historic lead and zinc mining and located within the boundaries of federal Superfund sites; provided, that any trust receiving such a grant shall accept the following grant conditions:

1. Funds shall be used to assist individuals or married couples living within the most affected area of the site and who are parents or legal guardians of children six (6) years of age and younger. For purposes of the Lead-Impacted Communities Relocation Assistance Act, "most affected area" shall mean the communities in which lead poses the greatest threat to children's health and shall include a reasonable buffer area around such communities. To be eligible for assistance an individual or married couple shall have both:

- a. continually resided in the most affected area of the site since December 1, 2003, and
- b. on December 1, 2003, either been pregnant or had residing with them a child or children six (6) years of age and younger;

2. For those eligible for relocation assistance who have rented their living quarters since December 1, 2003, and who can produce a valid rental contract or other proof of rental arrangement, assistance shall be in an amount equal to the average cost of twelve

(12) months of rent for comparable housing elsewhere in the county. The trust shall provide such assistance in periodic payments and not in a single lump sum. In addition, eligible individuals or married couples shall receive reimbursement up to One Thousand Dollars (\$1,000.00) for payment to a company in the moving business for at least two (2) years or for reimbursement of actual moving expenses as demonstrated by receipts. Recipients must agree, prior to accepting such assistance, that they will not again reside within one-half (1/2) mile of the most affected area of the site until the State Commissioner of Health formally determines that the area is safe for children six (6) years of age and younger;

3. For those individuals and married couples eligible for relocation assistance who have owned their homes since December 1, 2003, the trust shall purchase their homes for an amount equal to the average cost of comparable housing elsewhere in the county. In addition, such individuals shall receive reimbursement up to One Thousand Dollars (\$1,000.00) either for payment to a company in the moving business for at least two (2) years or for reimbursement of actual moving expenses as demonstrated by receipts. Recipients must agree, prior to accepting such assistance, that they will not again reside within one-half (1/2) mile of the most affected area of the site until the State Commissioner of Health formally determines that the area is safe for children six (6) years of age and younger;

4. In determining the purchase price of a recipient's home, the trust shall deduct any amounts received by the recipient in compensation for damage to the home caused by remedial action on the property; and

5. Funds shall also be used to assist landlords whose tenants take advantage of the relocation assistance provided in paragraph 2 of this subsection. Landlords shall be eligible for an amount equal to twelve (12) months of rent at a monthly rate equal to the average monthly rent received by the landlord for the vacated unit over the

previous twelve (12) months. Recipients of such assistance must agree, prior to accepting such assistance, that they will not permit any family with children six (6) years of age and younger to occupy any vacated unit until the State Commissioner of Health formally determines that the area is safe for children of such an age.

B. The trust shall agree to place a restriction which shall run with the land on the deeds to all property obtained pursuant to paragraph 3 of subsection A of this section providing that the property may not be occupied by children six (6) years of age and younger until the State Commissioner of Health formally determines that the area is safe for children of such an age.

C. Participation in the assistance program shall be voluntary. No person shall be required to relocate under the provisions of this act.

D. In addition to the relocation assistance program described in subsection A of this section, funds granted to the trust may be used for the following purposes:

1. To provide grants to municipalities, public trusts, or other public entities operating utility systems located within the most affected area of the site in order to lessen the debt burden on such entities as a result of the relocation of families pursuant to this act. The amount of such grants shall be based on the outstanding debt of such entities and the proportion that the number of persons relocated bears to the total population of the community served by such entity; and

2. To benefit public school districts located within the most affected area of the site.

E. Real property acquired by the trust pursuant to the relocation assistance provisions of this act may be utilized or disposed of in the manner that the trust determines shall best serve the public interest.

F. A trust receiving a grant from the Department of Environmental Quality shall be authorized to establish appropriate procedures for eligible residents to apply for the relocation assistance described in this section; provided, however, that such a trust must set a deadline requiring eligible residents to submit their initial application for assistance within four (4) months of the effective date of this act. The trust is further authorized to make reasonable use of grant funds for the administration of the relocation assistance program.

G. In addition to the expenditure of funds according to the provisions of this act, a trust receiving a grant from the Department of Environmental Quality, shall be authorized to seek and expend funds from any other source, whether public or private, to further the purposes of the trust. The funds granted to a trust by the state shall be transferred in periodic payments rather than a single lump sum.

H. Prior to determining what constitutes the most affected area, the trust shall consult with the Department of Environmental Quality, which shall provide a recommendation regarding what it believes the boundaries of such an area should be.

I. Any trust receiving funds under this act shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

J. At no time shall a majority of the trustees of a trust receiving funds under this act be residents of the most affected area. All trustees shall abstain from participating in any decision in which they have a direct pecuniary interest.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7604 of Title 10, unless there is created a duplication in numbering, reads as follows:

The restrictions on reoccupation described in subsection A of Section 3 of this act may be enforced by the trust in its own name

or by the district attorney or the Attorney General in the name of the State of Oklahoma. Those violating such restrictions shall be liable for penalties in an amount equal to three times the amount they have received from the trust. This penalty shall be in addition to such injunctive relief as the court may order. Proceeds from such actions shall be used by the trust to further the trust purposes identified in Section 2 of the Lead-Impacted Communities Relocation Assistance Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7605 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Neither the enactment of this act nor the grant of funds to a trust shall create any property right or right in action. The courts shall have no jurisdiction to entertain any action against the recipient trust, the State of Oklahoma, their officers or agents founded on a claim that the claimant should have received different or better treatment from the trust.

B. The determinations made by the trust pursuant to this relocation assistance program including, without limitation, determinations as to what constitutes the most affected area of the site, the average rental cost of comparable housing, the average purchase price of comparable housing, the eligibility of any person for assistance, and the determination of the proper amount of such assistance, if any, shall be committed to the sole discretion of the trust based on the information available to it and shall not be subject to judicial review.

C. The Department of Environmental Quality may contract with a trust associated with a substate planning district for approval of the recommendations made by the recipient trust.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7606 of Title 10, unless there is created a duplication in numbering, reads as follows:

The State Department of Health shall carefully monitor the blood lead levels of children who remain within the most affected area, with particular attention to those who may take up residence in the most affected area after the institution of relocation assistance.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18-202.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

For school districts located within the boundaries of federally designated Superfund sites from which students have been relocated with the assistance of state funds, the weighted calculations provided for in subsection A of Section 18-201.1 of Title 70 of the Oklahoma Statutes shall be based on the highest weighted average daily membership of the first nine (9) weeks of the current school year or any of the proceeding years, up to a maximum of ten (10) years since students within the district first received state assistance to relocate outside the district.

SECTION 8. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Governor is hereby authorized to accept any beneficial interest on behalf of the State of Oklahoma, in the Lead-Impacted Communities Relocation Assistance Trust, a state beneficiary public trust created pursuant to the provisions of Section 176 et seq. of Title 60 of the Oklahoma Statutes.

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