

ENROLLED HOUSE
BILL NO. 1457

By: Adair and Askins of the
House

and

Hobson of the Senate

An Act relating to public finance; amending 62 O.S. 2001, Sections 2307, as amended by Section 5, Chapter 95, O.S.L. 2002 and 2310 (62 O.S. Supp. 2002, Section 2307), which relate to the Tobacco Settlement Endowment Trust Fund Act; modifying and adding duties of the Board of Investors of the Tobacco Settlement Endowment Trust Fund; modifying and deleting definitions; modifying procedures for determining operating budget for the Board of Directors of the Tobacco Settlement Endowment Trust Fund; specifying operating expenses of the Board; and declaring an emergency.

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

SECTION 1. AMENDATORY 62 O.S. 2001, Section 2307, as amended by Section 5, Chapter 95, O.S.L. 2002 (62 O.S. Supp. 2002, Section 2307), is amended to read as follows:

Section 2307. A. On or before September 1 of each year, the Board of Investors of the Tobacco Settlement Endowment Trust Fund shall determine the ~~net appreciation~~ earnings of the trust fund for the previous fiscal year ending June 30. ~~The maximum earnings for each fiscal year shall not exceed the net appreciation.~~ In determining earnings, the Board of Investors shall certify ~~so much of the net appreciation~~ an amount which is prudent under the standard set forth in paragraph C of this section. The earnings so determined and certified by the Board of Investors for each fiscal year shall constitute the earnings of the Tobacco Settlement Endowment Trust Fund for the purposes of Section 40 of Article X of the Oklahoma Constitution.

B. ~~"Net appreciation" consists of the positive difference, if any, between the dollar value of the Tobacco Settlement Endowment Trust Fund and the historic dollar value as of a given date. Both unrealized and realized gains and losses, as well as cash on hand, shall be taken into account in determining the dollar value of the trust fund. "Historic dollar value" means the aggregate fair value in dollars of:~~

~~1. The monies transferred to the Tobacco Settlement Endowment Trust Fund pursuant to Section 25, Chapter 8, 1st Extraordinary Session, O.S.L. 2000;~~

~~2. Any payments to the trust fund principal pursuant to the tobacco settlement entered into on November 13, 1998, and pursuant to Section 40 of Article X of the Oklahoma Constitution; and~~

~~3. Payments from any future settlements or judgments to the trust fund pursuant to Section 40 of Article X of the Oklahoma Constitution; and~~

~~4. Other payments or appropriations added or contributed to the trust fund principal by law.~~

~~The determination of historic dollar value made in good faith by the Board of Investors shall be conclusive "Earnings" consist of dividends and interest, less fees to manage the fund.~~

C. In the administration of the powers to determine ~~net appreciation and~~ earnings, to make and retain investments, and to delegate investment management of institutional funds, the Board of Investors shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing, the Board of Investors shall consider:

1. Long- and short-term needs of the trust fund in carrying out its purposes;

2. The present and anticipated financial requirements for programs funded by the Board of Directors of the Tobacco Settlement Endowment Trust Fund;

3. Expected total return on its investments;

4. Price level and inflation trends; and

5. General economic conditions.

SECTION 2. AMENDATORY 62 O.S. 2001, Section 2310, is amended to read as follows:

Section 2310. A. The Board of Directors of the Tobacco Settlement Endowment Trust Fund shall adopt a budget for each fiscal year after the Board of Directors has been notified by the Board of Investors of the amount of earnings available for distribution. The budget shall be broken out into an operating budget and a ~~grants and contracts~~ programs budget. The budget shall be presented to the Board of Investors of the Tobacco Settlement Endowment Trust Fund and filed with the Office of State Finance. ~~The operating budget of the Board of Directors may not exceed fifteen percent (15%) of the amount of earnings certified by the Board of Investors, provided that the funds spent on administrative~~ Operating expenses of the Board of Directors shall not exceed Five Hundred Thousand Dollars (\$500,000.00) in any fiscal year. This budget shall include the administrative operating expenses of the State Treasurer approved by the Board of Directors of the Tobacco Settlement Endowment Trust Fund. Claims Operating expenses include salaries, travel, and other operating expenses of the Board of Investors and Board of Directors of the Tobacco Settlement Endowment Trust Fund but do not include expenditures which support the programs funded by the Board of Directors or the professional expenses paid by the Board of Investors related to the management of the Trust Fund. The fees paid to investment managers and the custodian bank must be properly

disclosed and approved by the Board of Investors or authorized staff in the Office of the State Treasurer, but the fees may be paid from assets under management. All operating expenses and program expenses shall be paid out of this budgeted amount shall be paid against the amount of distribution to be made earnings from the Tobacco Settlement Endowment Trust Fund.

B. The Board of Investors shall ensure that sufficient cash is transferred at appropriate times to honor these claims, but shall keep as much as possible of the trust fund invested at all times. The operating budget of the Board of Directors shall be allotted in twelve substantially equal amounts throughout the fiscal year. Amounts to be distributed to carry out the purposes of the Tobacco Settlement Endowment Trust Fund Act shall be made available as needed and determined by the Board of Directors of the Tobacco Settlement Endowment Trust Fund.

C. The Board of Directors shall direct the Board of Investors of the Tobacco Settlement Endowment Trust Fund to set aside sufficient cash reserves out of earnings from the Tobacco Settlement Endowment Trust Fund to ensure that the ~~administrative~~ expenses of the Board of Directors and Board of Investors of the Tobacco Settlement Endowment Trust Fund and the State Treasurer may be funded in the event that there is insufficient earnings achieved in a future year to cover those expenses. Earnings from a fiscal year may be carried over or used as reserves for expenditure in future fiscal years.

D. The Board of Investors shall calculate earnings of the Tobacco Settlement Endowment Trust Fund for the fiscal year ending June 30, 2003, and future fiscal years pursuant to this act.

SECTION 3. 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.

Passed the House of Representatives the 13th day of March, 2003.

Presiding Officer of the House of
Representatives

Passed the Senate the 16th day of April, 2003.

Presiding Officer of the Senate