

EHB 1713

THE STATE SENATE
Monday, April 7, 2003

ENGROSSED

House Bill No. 1713

As Amended

ENGROSSED HOUSE BILL NO. 1713 - By: BENGE of the House and ROBINSON of the Senate.

[indigent persons - Oklahoma Community Hospitals Public Trust Authorities Act - audits and reports - authorizing bonds - codification - emergency]

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

2. "Hospital district" means a designated geographical area established by a community hospitals public trust authority;

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

6 4. "Participating hospital" means a hospital which expends at
7 least Fifty Thousand Dollars (\$50,000.00) annually providing care
8 for medically indigent persons located within a hospital district
9 and has a system providing inpatient and/or outpatient health care,
10 trauma care, or emergency care services that is not limited to a
11 specific facility or modality of health care; and

12 5. "Public trust authority" means a community hospitals public
13 trust authority establishing a hospital district pursuant to the
14 provisions of the Oklahoma Community Hospitals Public Trust
15 Authorities Act.

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

19 A. 1. The Oklahoma Legislature finds that the delivery of
20 health care services to the public including medically indigent
21 persons will be enhanced through the establishment of community
22 hospitals public trust authorities and the creation of hospital

1 districts pursuant to the Oklahoma Community Hospitals Public Trust
2 Authorities Act.

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

8 B. 1. A hospital or two or more hospitals located within a
9 county or adjacent counties may jointly create a public trust for
10 the purposes of providing funding and coordination for the delivery
11 of health care to the public including medically indigent persons.
12 A hospital participating in the creation of a public trust must:

- 13 a. expend at least Fifty Thousand Dollars (\$50,000.00)
14 annually providing care for medically indigent persons
15 located within a hospital district, and
16 b. provide a system of inpatient and/or outpatient health
17 care, trauma care, or emergency care services that is
18 not limited to a specific facility or modality of
19 health care;

20 2. The county or counties in which the hospital district is
21 established must approve and shall be the beneficiary of the public
22 trust pursuant to the provisions of Sections 176 and 177 of Title 60
23 of the Oklahoma Statutes.

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

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

8 2. The names and corporate headquarters of hospitals and each
9 hospital participating in the public trust;

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

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

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

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

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

22 a. the chief executive officers of the participating
23 hospitals,

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

6 c. one member appointed by the Governor who has no direct
7 affiliation with any participating hospital; provided,
8 that if pursuant to the provisions of this paragraph
9 the Board will have less than five members, the
10 Governor shall appoint additional members.

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

19 E. 1. Each hospital district shall be a governmental entity
20 and a body politic and corporate with powers of government and with
21 authority to exercise the rights, privileges and functions specified
22 by the Oklahoma Community Hospitals Public Trust Authorities Act and
23 Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes.

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

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

6 1. Act as a vehicle for securing funds for education, indigent
7 medical care, trauma, emergency and other health care services; and

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

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

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

18 Hospitals:

19 1. Shall be licensed by the State Department of Health and
20 shall meet the standards, requirements and essentials of the Joint
21 Commission of Accreditation of Health Care Organizations and the
22 American Osteopathic Association or meet medicare certification by
23 the Center for Medicare and Medicaid Services. Provided, the State

1 Commissioner of Health may waive any such standards, requirements
2 and essentials as the Commissioner deems necessary; and

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

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

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

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

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

19 A. Each community hospitals public trust authority shall have
20 the power to:

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

23 2. Adopt an official seal;

- 1 3. Annually appoint an executive director;
- 2 4. Sue and be sued;
- 3 5. Make and enter into all contracts necessary or incidental to
4 the performance of its duties and the execution of its powers
5 pursuant to the Oklahoma Community Hospitals Public Trust
6 Authorities Act;
- 7 6. Purchase or lease equipment, furniture, materials and
8 supplies, and incur such other expenses as may be necessary to
9 discharge its duties and responsibilities or to implement the
10 provisions of the Oklahoma Community Hospitals Public Trust
11 Authorities Act;
- 12 7. Accept grants from the United States of America, from other
13 government entities, or from any corporation or agency created or
14 designed by the United States or other government entity, and, in
15 connection with any such grant, to enter into such agreements as the
16 United States or such corporation or agency may require;
- 17 8. Accept grants and gifts from private individuals and
18 organizations;
- 19 9. Issue bonds and other evidences of indebtedness, and to
20 secure the payment thereof by mortgage, pledge, or deed of trust of,
21 or any other encumbrance upon, any or all of its then-owned or
22 after-acquired real or personal property, assets, franchises, or
23 revenues;

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

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

6 12. Assess fees, levies, assessment, or charges upon any
7 hospital located within the geographical boundaries of its hospital
8 district pursuant to the Oklahoma Open Meeting Act;

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

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

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

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

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

21 C. Each public trust authority may appoint such officers,
22 agents and employees, fix their compensation and term of office and

1 the method in which they may be removed and delegate to them such of
2 its powers and duties as it may deem proper.

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

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

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

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

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

21 I. The trustees of each public trust authority created pursuant
22 to the Oklahoma Community Hospitals Public Trust Authorities Act
23 shall make and adopt bylaws for the due and orderly administration

1 and regulation of the affairs of the public trust authority. All
2 bylaws and amendments thereto of a public trust authority shall be
3 submitted in writing to the beneficiary of the public trust, the
4 Governor of this state and to the Speaker of the Oklahoma House of
5 Representatives and the President Pro Tempore of the State Senate.

6 J. Each public trust authority shall comply with:

- 7 1. The annual budget provisions of the state requiring a
8 balanced budget. A copy of the budget shall be submitted to the
9 Governor and to the beneficiary of the public trust each year;
- 10 2. The Public Competitive Bidding Act of 1974;
- 11 3. The Oklahoma Open Records Act;
- 12 4. The Oklahoma Open Meeting Act; and
- 13 5. The provisions of Sections 176 through 180.3 of Title 60 of
14 the Oklahoma Statutes and the Community Hospitals Public Trust
15 Authorities Act.

16 K. 1. Each public trust authority shall provide for complete
17 financial audits on all accounts of the public trust authority and
18 authorize periodic audits by an independent external auditing
19 agency. Such audits shall be performed annually in a format
20 approved by the State Auditor and Inspector. The audits shall be
21 made in accordance with generally accepted auditing standards and
22 government auditing standards. Financial statements shall be
23 prepared in accordance with generally accepted accounting

1 principles. Such audits shall be submitted to the State Auditor and
2 Inspector and to the beneficiary of the public trust for review.

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

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

14 M. 1. Except for acts of dishonesty, no trustee shall be
15 charged personally with any liability whatsoever by reason of any
16 act or omission committed or suffered in the performance of such
17 trust or in the operation of the trust property.

18 2. A public trust established pursuant to the provisions of the
19 Oklahoma Community Hospitals Public Trust Authorities Act shall be
20 covered by The Governmental Tort Claims Act.

21 3. Officers, employees, agents, independent contractors and
22 employees of independent contractors of participating hospitals
23 shall not be covered by The Governmental Tort Claims Act. The

1 provisions of this paragraph shall not affect the immunity provided
2 to hospitals or to officers and employees of hospitals covered by
3 Section 152 of Title 51 of the Oklahoma Statutes.

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

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

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

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

1 Act shall authorize the issuance of any bonds of a public trust
2 authority payable other than from revenues of the public trust
3 authority.

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

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

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

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

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

10 SECTION 8. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-2-03 - DO
15 PASS, As Amended.