

SB 542

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THE STATE SENATE
Monday, February 24, 2003

Senate Bill No. 542
As Amended

SENATE BILL NO. 542 - By: LITTLEFIELD of the Senate and COLEMAN of the House.

[tourism - Division of Parks - removing park entry fee prohibition - removing requirement for deposit of monies - emergency]

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 1811, is amended to read as follows:

Section 1811. A. The Division of Parks shall, subject to the policies and rules of the Oklahoma Tourism and Recreation Commission:

1. Plan, supervise, acquire, construct, enlarge, erect, improve, equip, furnish, conserve and preserve public recreation facilities and resources in state parks, except lodges, but including cabins in parks where there is no state lodge, camping sites, scenic trails, picnic sites, golf courses, boating and bathing facilities, and other similar facilities in state parks reasonably necessary and useful in promoting the public use of state parks under the jurisdiction and control of the Commission;

2. Administer state parks, establish rules for the use of public recreation facilities therein, and establish rentals for the

(Bold face denotes Committee Amendments)

1 use of lands or interests therein; ~~provided, however, nothing in~~
2 ~~this paragraph shall allow the charging of admission fees to any~~
3 ~~state park. Provided further, however, the Division of Parks may~~
4 ~~establish an entrance fee program and rates for entry into Natural~~
5 ~~Falls State Park in Delaware County. All monies collected shall be~~
6 ~~deposited to the Oklahoma Tourism and Recreation Department~~
7 ~~Revolving Fund; provided, not less than one hundred percent (100%)~~
8 ~~of such monies collected shall be spent on capital improvements of~~
9 ~~park areas in Natural Falls State Park in Delaware County;~~

10 3. Exercise all authority and powers now vested in the Division
11 of Parks and Recreation and derived from the Oklahoma Industrial
12 Development and Park Department relating to parks and recreation,
13 except as ~~regards~~ in regard to state-owned lodges;

14 4. Commission any officer or employee who is certified pursuant
15 to Section 3311 of Title 70 of the Oklahoma Statutes as a park
16 ranger as the Department deems necessary to secure the parks and
17 property of the Department and to maintain law and order therein;
18 and

19 5. Be authorized to award to any employee of the Division of
20 Parks within the Oklahoma Tourism and Recreation Department,
21 additional compensation for:

22 a. obtaining advertising for any of the Department's
23 Internet websites, or

1 b. obtaining advertising for any other of the
2 Department's promotional publications, products, or
3 properties.

4 B. Any compensation awarded pursuant to paragraph 5 of
5 subsection A of this section shall not exceed twenty-five percent
6 (25%) of the revenues collected for such purpose and shall be
7 awarded at the discretion of the Director of the Department.

8 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1847.1, as
9 last amended by Section 7, Chapter 343, O.S.L. 2002 (74 O.S. Supp.
10 2002, Section 1847.1), is amended to read as follows:

11 Section 1847.1 A. The Oklahoma Tourism and Recreation
12 Commission is granted the additional powers herein given it for the
13 purpose of operating, maintaining, extending and improving state
14 parks in the State of Oklahoma, including specifically all parks and
15 park and recreational properties now owned or leased by the state or
16 by the Commission together with all additions which may be made
17 thereto and all additional park and recreational properties which
18 may be acquired hereafter by the Commission and by the state.

19 The Commission shall have and is hereby authorized to exercise
20 the following powers, rights and privileges:

21 1. To have the exclusive possession and control of, and to
22 control, operate and maintain for the benefit of the people of the
23 State of Oklahoma all state parks and all lands and other properties

1 now or hereafter owned or leased by the state or Commission for park
2 or recreational purposes;

3 2. To acquire by purchase, lease, gift, or in any other manner
4 and to maintain, use and operate any and all property, real,
5 personal or mixed, necessary or convenient to the exercise of the
6 powers, rights, privileges and functions conferred upon it by this
7 act. Title to all such property shall be vested in the State of
8 Oklahoma, although such property is sometimes herein referred to as
9 property "of the Commission". The power of condemnation herein
10 granted shall be exercised in the manner provided by the general
11 laws of the state for the condemnation of property by the state;

12 3. To acquire real property by condemnation only when the
13 Attorney General or other counsel deems it an appropriate means of
14 clearing title from willing or unavailable sellers;

15 4. Subject to the provisions of this act, from time to time to
16 lease, without restriction as to term, any property which said
17 Commission shall determine advisable to more fully carry into effect
18 the duties and powers of said Commission;

19 5. To acquire, construct, extend, improve, maintain and operate
20 any and all facilities of all kinds which in the judgment of the
21 Commission will provide recreational or other facilities for the
22 benefit of the public, or which are necessary or convenient to the
23 exercise of the powers of the Commission;

- 1 6. To sue and be sued;
- 2 7. To adopt, use and alter an official seal;
- 3 8. To make bylaws for the management and regulation of its
4 affairs;
- 5 9. To appoint officers, agents and employees and prescribe
6 their duties and to fix their compensation;
- 7 10. To make such contracts and execute such instruments as in
8 the judgment of the Commission are necessary or convenient to the
9 exercise of the powers conferred upon it by this act;
- 10 11. To prescribe and enforce rules for the use of all
11 recreational and other facilities and properties of the Commission,
12 including the restriction or prohibition of the use of firearms, the
13 inspection of boats, the issuance of permits for the operation of
14 watercraft of all kinds, the charging and collection of fees for the
15 inspection and for the operation of such craft, prescribing the
16 type, style, location and equipment of all wharves, docks and
17 anchorages, pavilions, restaurants and other structures or buildings
18 which may be constructed along shores or upon the waters of any body
19 of water or upon other property controlled by the Commission and
20 providing for the licensing, inspection and supervision of same, and
21 granting and imposing charges for permits and for all commercial
22 uses or purposes to which any of the properties of the Commission or

1 any structures or buildings located on property of the Commission
2 may be used;

3 12. To prescribe and collect reasonable rates and fees pursuant
4 to the provisions of this section for the services, facilities and
5 commodities rendered by all property of the Commission.

6 a. The Commission may establish rates for rooms at the
7 state lodges and cabins, for recreational activities,
8 for recreational vehicles and camping sites, and for
9 community facilities under control of the Commission.
10 The method whereby the rates are determined shall be
11 promulgated pursuant to Article I of the
12 Administrative Procedures Act. At least twenty (20)
13 days prior to the adoption or approval of any rate
14 changes by the Commission, the Department shall submit
15 a copy of such proposed rates, for informational
16 purposes, to the Governor, Speaker of the House of
17 Representatives and President Pro Tempore of the
18 Senate. Any change in such rates during the year or
19 when the Legislature is not in session shall be
20 reported in writing to the Governor, Speaker of the
21 House of Representatives and President Pro Tempore of
22 the Senate within five (5) business days of such
23 Commission action.

1 b. The Commission may establish maximum charges for all
2 activities at state-owned golf courses. The charges
3 may vary among the different golf courses according to
4 the practices of the golf industry. The method
5 whereby the maximum charges are determined shall be in
6 accordance with rules promulgated pursuant to Article
7 I of the Administrative Procedures Act. At least
8 twenty (20) days prior to the adoption or approval of
9 any rate changes by the Commission, the Oklahoma
10 Tourism and Recreation Department shall submit a copy
11 of such proposed charges, for informational purposes,
12 to the Governor, Speaker of the House of
13 Representatives and President Pro Tempore of the
14 Senate.

15 c. The Oklahoma Tourism and Recreation Commission may
16 establish entrance or day use charges at the state
17 parks in this state. All monies collected from the
18 charges shall be used for capital improvements and
19 operations of the state parks where the charges are
20 collected. The Commission may establish an annual
21 pass for visitors. The method whereby the maximum
22 charges are determined, sold and collected shall be in
23 accordance with Article I of the Administrative

1 Procedures Act. The Oklahoma Tourism and Recreation
2 Department shall submit a copy of any proposed rate
3 change that is approved by the Commission to the
4 Governor, President Pro Tempore of the Senate and the
5 Speaker of the House of Representatives at least
6 twenty (20) days prior to the proposed adoption.

7 d. Fees shall be promulgated pursuant to Article I of the
8 Administrative Procedures Act;

9 13. The Commission may erect cabins and support facilities on
10 any land under its control. The Commission may operate or lease
11 cabins, lodges, restaurants and other facilities and improvements
12 for the public making use of the recreational facilities surrounding
13 such improvements;

14 14. To develop and implement a pay incentive plan for employees
15 of the Division of Parks, Division of Lodges, Golf Operations and
16 Oklahoma Today Magazine. Such incentive pay shall not be included
17 in an employee's base salary, and shall be based on the goals and
18 eligibility established by the Commission on an annual basis. Such
19 pay incentive shall not exceed ten percent (10%) of each eligible
20 employee's salary. Such pay incentive shall not exceed the total
21 change in improved financial performance for each facility over the
22 previous fiscal year. Such compensation shall not be subject to the

1 requirements of Section 840-2.17 of this title. The Commission
2 shall promulgate rules for the implementation of such plan;

3 15. To authorize any division to sell advertising in any of the
4 division's publications, on division property on which advertising
5 is sold in the tourism industry, or on its website, provided that
6 such advertising shall be approved by the Division Director or
7 designee prior to acceptance for publication. The sale of
8 advertising and negotiation of rates for the advertising shall not
9 be subject to the Oklahoma Central Purchasing Act and the
10 Administrative Procedures Act; and

11 16. To authorize the Executive Director to enter into leases,
12 grant easements and execute such instruments as in the judgment of
13 the Commission are necessary or convenient to the exercise of those
14 powers and duties of the Commission pursuant to the Oklahoma Tourism
15 and Recreation Act; provided, the Executive Director shall provide a
16 monthly report to the Commission of actions taken as a result of
17 such delegation.

18 B. All fees, licenses and other charges shall be posted in a
19 convenient place in each park. Everyone using any of the facilities
20 of said park shall be charged the same fees, licenses and every
21 other charge except:

22 1. Residents of this state sixty-two (62) years of age and over
23 and their spouses, and nonresidents sixty-two (62) years of age and

1 over and their spouses. The Commission may promulgate rules
2 establishing different fees for residents and nonresidents specified
3 in this paragraph. Fees may reflect the seasonal usage of the parks
4 and facilities and/or promotional purposes and goals.

5 Identification may be established by presentation of the state
6 driver's license, state license for identification only, birth
7 certificate of such persons or any other form of identification
8 authorized by the Commission;

9 2. Individuals who have been certified as totally disabled
10 under state or federal law and their spouses will be entitled to a
11 fifty percent (50%) reduction which shall apply to recreation use
12 facilities;

13 3. Children's groups, volunteer groups as specified by the
14 Commission, or governmental entities that provide beneficial
15 services at the facility for which the fee may be reduced or waived.
16 The failure to collect such fees, licenses and other charges shall
17 subject the employees of the Commission to a fine of Twenty-five
18 Dollars (\$25.00) for each and every violation; and

19 4. Special discount rates as authorized in paragraphs 1 and 2
20 of this subsection may be waived for subject individuals who are
21 members of a group being provided a special group rate in accordance
22 with Section 1834 of this title.

1 C. The Commission shall have the authority to implement an
2 incentive program to improve private concession maintenance within
3 properties under the jurisdiction of the Commission. The intent of
4 the incentive program is to encourage concessionaires to make or
5 maintain the improvements that they own or operate throughout the
6 duration of their ownership or leasehold interest. The Commission
7 shall promulgate rules for the implementation of the program.

8 D. The Oklahoma Tourism and Recreation Commission shall have
9 authority to transfer to any city, county, or other agency of
10 government, which is a willing recipient, its interest in real and
11 personal property owned by the State of Oklahoma or the Oklahoma
12 Tourism and Recreation Department and operated and maintained under
13 the jurisdiction of the Commission. Such real estate transfers
14 shall not be subject to Sections 456.7 or 129.4 of this title or any
15 other provision of state law relative to disposition of real estate.
16 Such real estate transfers shall be subject to the following
17 provisions:

18 1. The city, county or other agency recipient shall agree to
19 accept the interest transferred by the state, accept responsibility
20 for the property, and use the real estate for public recreation
21 purposes in accordance with the Land and Water Conservation Fund Act
22 of 1965, Public Law 88-578, 78 STAT 897;

1 2. The city, county or other agency recipient shall not dispose
2 of the property unless substitute property is provided that is
3 equivalent in value and usefulness;

4 3. The Commission shall transfer the property to the recipient
5 by quit claim deed or other instrument as may be appropriate;

6 4. The consideration for the property transfer shall be the
7 agreement of the recipient to continue public recreation use of the
8 property and the recipient's agreement to manage the property
9 without operating subsidy from the Oklahoma Tourism and Recreation
10 Department or Commission;

11 5. The real estate transfer shall be subject to all existing
12 easements and reservations of record; and

13 6. The Oklahoma Tourism and Recreation Commission shall provide
14 written notice to the President Pro Tempore of the Senate and the
15 Speaker of the House of Representatives detailing any such proposed
16 transfer agreement to be entered into pursuant to the provisions of
17 this section thirty (30) days prior to the first day of the
18 legislative session. The Commission shall approve such proposed
19 transfer during the legislative session to be effective at the
20 beginning of the next fiscal year, contingent upon the Legislature's
21 approval of the proposed transfer.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-19-03 - DO
4 PASS, As Amended and Coauthored.