

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 463

By: Rabon

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2001, Section 1830, which relates to multicounty organizations; specifying the expenditure of certain funds; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 1830, is amended to read as follows:

Section 1830 A. The Oklahoma Tourism and Recreation Department, with the approval of the Oklahoma Tourism and Recreation Commission, shall develop rules to administer any of the matching funds derived from the Department for the allowable expenditures of multicounty organizations. No single multicounty organization shall receive more than twenty percent (20%) of the monies administered by the Oklahoma Tourism and Recreation Department pursuant to this section. If any county is represented by more than one multicounty organization, then the total amount of funds received by all such multicounty organizations shall not exceed twenty percent (20%) of the monies administered by the Oklahoma Tourism and Recreation Department pursuant to this section. Such rules shall be developed in accordance with this section. As used in this section:

1. "Multicounty organization" shall mean those nonprofit organizations which satisfy the following requirements:

- a. whose primary purpose is to promote the tourism attributes of a multiple-county region, and is identified as a tourism "country" or "lake" area, or

any other such organization participating in the matching funds program on July 1, 2001,

- b. that is governed by a board of directors elected by the organization's membership,
- c. that is governed by a board of directors which equitably represents the counties within the multiple-county region,
- d. that maintains an administrator of operations position who is not an elected director,
- e. that utilizes income from private sector sources as the basis for funding their administrative and promotion expenses, and
- f. that has provided to the Department an independent and certified financial-related audit for the preceding fiscal year;

2. "Administrative expenditure" shall mean those expenditures for the administration of fund raising and tourism promotion.

Administrative expenditures shall include salaries and payroll taxes, personal services contracts, travel expenses not to exceed the amounts provided in the State Travel Reimbursement Act, ~~Section 500.1 et seq. of this title,~~ rent of facilities, office supplies, telephone and telegraph and multicounty organization audit costs;

3. "Allowable expenditure" shall mean those expenditures by multicounty organizations submitted to the Department of Tourism and Recreation for matching funds in accordance with the provisions of this section and the rules promulgated by the Tourism and Recreation Commission;

4. "Discretionary expenditure" shall mean those expenditures by multicounty organizations for which matching funds are not requested. Discretionary expenditures are not subject to the limiting provisions of this section and the rules promulgated by the Tourism and Recreation Commission;

5. "Independent and certified audit" shall mean a financial-related audit performed in accordance with Generally Accepted Government Auditing Standards, issued by the Comptroller General of the United States. The scope of the audit shall, at a minimum, consist of a statement of revenue and expenditures and shall include the specific requirements identified in this section and in Tourism and Recreation rules; and

6. "Tourism promotion expenditure" shall mean those expenditures for the preparation, printing, publication and distribution of media advertising in brochures, news and publicity materials, travel posters, mailing pieces, newspapers, magazines, television, radio, billboards, advertising and promotional specialties, exhibit space and displays at trade shows and conventions and the expenses for operating such exhibits, not to exceed amounts provided in the State Travel Reimbursement Act, ~~Section 500.1 et seq. of this title,~~ the cost of travel writer, travel agent, tour broker and tour operator familiarization tours into the State of Oklahoma and registration fees for the annual tourism and recreation industry conference for the purpose of attracting tourists or generating travel or tourism activity within the state or multicounty organization areas. The amount expended within the multicounty organization area for tourism promotion shall not exceed fifty percent (50%) of the total of allowable expenditures and allocated matching funds.

B. It is the intent of the Legislature to encourage the promotion of tourism by multicounty organizations in cooperation with the Tourism and Recreation Department's statewide program. Allowable administrative expenditures by multicounty organizations shall not exceed forty percent (40%) of the lesser of either the total amount allocated (including reallocations) to the organization from appropriations made by the Legislature or the total of the matched expenditures. The limitation on administrative expenditures

applies only to those expenditures submitted for matching with state appropriated funds.

C. With the exception of those organizations not identified as "country" or "lake" associations participating in the matching funds program on July 1, 2001, not more than one organization representing a recognized "country" or "lake" area shall be eligible to receive matching funds.

D. Matching funds for the allowable expenditures shall be based upon actual expenditures by the multicounty organization less any discount, refund, or rebate to the multicounty organization. Multicounty organizations shall use a State of Oklahoma Notarized Claim Form with all applicable statements and affidavits to request matching funds for the allowable expenditures.

E. In order for a multicounty organization to receive matching funds for expenditures incurred to publish and distribute a promotional periodical emphasizing the attractions, landmarks, activities, geographical features and other characteristics of counties within the multicounty organization's area of responsibility, the multicounty organization shall be subject to the following requirements:

1. Any funds collected on behalf of the multicounty organization for advertisements in the promotional periodical shall be paid to the multicounty organization within twenty (20) working days after collection by any entity acting on behalf of the multicounty organization for solicitation of advertising revenue. The multicounty organization shall deposit any funds paid to it within five (5) working days of receipt;

2. A multicounty organization shall maintain an account with a financial institution subject to the regulatory control of a state or federal financial regulatory entity for the deposit and withdrawal of all funds collected by or on behalf of the multicounty organization;

3. A multicounty organization shall prepare an annual Statement of Income and Expense showing all deposits to the account maintained with the financial institution and all withdrawals from the account with the financial institution for the period covered by the annual income and expense statement;

4. A multicounty organization may enter into a contract with a person or legally organized business entity for the solicitation of advertising revenue in a promotional periodical publication and for the publication and distribution of the periodical emphasizing the attributes of sites, scenes, businesses and attractions located within the area for which the multicounty organization is responsible if:

- a. the person or legally organized business entity provides a detailed written disclosure to the multicounty organization of its actual costs incurred in performance of the contract on a periodic basis during the period prescribed in the contract for performance which disclosure shall be at least quarterly,
- b. the multicounty organization ensures that the actual cost of publication for the promotional periodical is printed in at least 10-point type somewhere in the body of the publication,
- c. the multicounty organization ensures that the person or legally organized business entity performing services on behalf of the multicounty organization identifies to the multicounty organization each purchaser of advertising in the multicounty organization promotional periodical, the amount of money paid for advertising in the promotional periodical, and the size or other relevant

characteristics of the material purchased for publication in the promotional periodical,

- d. the person or legally organized business entity soliciting advertising revenue may not advance or deposit their own funds as a means of securing matching state funds, and such acts shall be deemed as fraud, subject to prosecution, and
- e. the multicounty organization and the person or legally organized business entity acting on behalf of the multicounty organization both execute a statement, upon a form to be prescribed by the State Auditor and Inspector, under oath that any funds being requested from the Department of Tourism and Recreation for matching of an allowable expenditure as authorized by this section represent an amount of money equal to an amount of money that has previously been deposited into the account maintained by the multicounty organization as of the date the request for matching funds is made. The statement shall include the identity of each purchaser of advertising in the multicounty organization promotional periodical and the amount of money paid for advertising in the periodical together with the other information required by subparagraph c of this paragraph. The statement shall also include a verification that the funds collected by or on behalf of the multicounty organization were expended for:
 - (1) a legitimate operational expense of the multicounty organization,
 - (2) the purpose of obtaining matching funds as authorized by this section, or

- (3) a promotional event sponsored, conducted or organized by the multicounty organization for attracting attention to a specific location or occasion in furtherance of a purpose for which the multicounty organization was formed.

F. Each multicounty organization shall prepare and submit appropriate plans, including a budget work program, for the ensuing fiscal year to the Tourism and Recreation Commission. Expenditures for obligations incurred before the Tourism and Recreation Commission approves the multicounty organizations' plans and budget work programs and any changes thereto, and expenditures not in accordance with the multicounty organizations' plans and budget work programs, shall not be allowable expenditures. The Tourism and Recreation Commission's approval of a multicounty organization budget work program constitutes a firm commitment of the multicounty organization's appropriated funds, subject to any fiscal year limitation, except that the Commission may reallocate unobligated funds as provided by law.

G. Each multicounty organization shall be required to submit an annual independent and certified audit of the multicounty organization. The audits shall encompass all funds available to the multicounty organization. The audit report shall include a statement of Income and Expense and, at a minimum, encompass all monies received by the multicounty organization and all matched expenditures reimbursed to the multicounty organization. Revenue reported shall include all advertising revenue received and define all other individual sources of revenue. The names and addresses and amounts received from each advertiser shall be included as an unaudited supplemental schedule to the audit report.

H. The person or entity engaged to perform the audit required by subsection F of this section shall:

1. Not be the same person or entity that performs bookkeeping, controllership or management functions, or other accounting services for the multicounty organization;

2. Be registered with the Oklahoma Accountancy Board and possess a permit to practice; and

3. File a copy of the audit performed on behalf of a multicounty organization with the State Auditor and Inspector.

I. Failure to submit an audit report shall be cause for withholding of matching funds to a multicounty organization. Audit reports showing matching by any amount in excess of the allowable expenditures, matching for unallowable expenditures, or noncompliance with statutes, procedures prescribed herein, or Tourism and Recreation rules shall be cause for withholding of matching funds until such time as restitution is made to the Department of Tourism and Recreation.

J. The State Auditor and Inspector shall conduct an office examination of the audits filed pursuant to paragraph 3 of subsection G of this section on an annual basis. The examination shall include analysis of the quality of the audit performed and shall include written recommendations for modifications in future audits conducted on behalf of a multicounty organization.

SECTION 2. 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.

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