

EHB 2431

THE STATE SENATE
Monday, April 10, 2006

ENGROSSED

House Bill No. 2431

ENGROSSED HOUSE BILL NO. 2431 - By: PIATT, HYMAN and HILLIARD of the House and CRUTCHFIELD of the Senate.

An Act relating to tourism and recreation; providing certain employees at Murray State Park or Lake Murray Lodge with employment opportunities with a successor operator; requiring employees to be qualified for employment; directing the Oklahoma Tourism and Recreation Department to develop a severance package for employees affected by certain closures; creating the Oklahoma State Park Trust Fund; making the Oklahoma Tourism and Recreation Commission trustees of the Trust Fund; providing for utilization of Trust Fund; requiring the Commission to give certain priority for funding; specifying sources of monies for the Trust Fund; limiting expenditure of Trust Fund monies; directing the Commission to utilize oil and gas royalty payments for certain purposes; requiring the Commission to give priority for funding to certain state parks; establishing duties of the Commission as trustees of the Trust Fund; authorizing the Commission to procure liability insurance; directing the Commission to utilize certain investment policy; requiring all investments of the Trust Fund to comply with certain guidelines; providing for placement of Trust Fund with a custodian; establishing duties and requirements for the custodian; directing the Commission to develop an investment plan; requiring the Commission to compile quarterly financial reports and an annual report; stating contents of the reports; prohibiting a fiduciary of the Trust Fund to cause certain transactions to occur; prohibiting a fiduciary from taking certain actions; allowing a fiduciary to make certain investments and provide certain services; specifying actions that make a person or financial institution a fiduciary of the Trust Fund; providing for codification; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2242.1 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 Each employee at Murray State Park or Lake Murray Lodge who has
5 a minimum of two (2) years' continuous service with the Oklahoma
6 Tourism and Recreation Department at Murray State Park or Lake
7 Murray Lodge on the date of closure of the facility shall have the
8 opportunity to obtain employment with any successor operator of a
9 resort or park facility located on the lands held by the Oklahoma
10 Tourism and Recreation Department, provided the employee is
11 qualified and eligible for any such employment. Further, the
12 Oklahoma Tourism and Recreation Department is hereby directed to
13 develop a severance package for all employees of the Department
14 affected by the closure of any state lodge or park facility owned by
15 the Department.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2276.1 of Title 74, unless there
18 is created a duplication in numbering, reads as follows:

19 A. There is hereby created a trust fund to be known as the
20 "Oklahoma State Park Trust Fund". The Oklahoma Tourism and
21 Recreation Commission shall be the trustees of said Trust Fund.

22 B. In addition to the revenues received from royalty payments
23 as provided for in Section 3 of this act, the Commission shall

1 utilize not more than five percent (5%) of the principal of the
2 Trust Fund annually to:

3 1. Protect and conserve state park lands, but shall not include
4 routine maintenance expenses of the state parks;

5 2. Preserve historic properties under the jurisdiction of the
6 Commission;

7 3. Provide for one-time capital upgrades and improvements of
8 state park resources; and

9 4. Pay fees and expenses associated with the services of a
10 custodian of the Trust Fund.

11 C. The Commission shall give priority for funding to the state
12 park from which the revenues were initially derived.

13 D. The Trust Fund principal shall consist of monies from any
14 and all mineral lease payments, seismograph fees, or other payments
15 associated with oil and gas mineral operations at state parks that
16 are managed by the Oklahoma Tourism and Recreation Department, any
17 funds appropriated or transferred to the Trust Fund by the
18 Legislature, and any monies or assets contributed to the Trust Fund
19 from any other source, public or private.

20 E. Notwithstanding other provisions of law, income and
21 investment return on Trust Fund principal shall accrue to the Trust
22 Fund for use as provided by authorization of the trustees for the
23 purposes listed in subsection B of this section. Except as provided

1 for in subsection B of this section, no income or investment return
2 or principal shall be used for administrative expenses of the
3 Oklahoma Tourism and Recreation Department or expenses incurred by
4 the Commission in the administration of the Trust Fund.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2250.1 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 A. In addition to the expenditure of funds from the Oklahoma
9 State Park Trust Fund as provided for in Section 2 of this act, the
10 Commission shall utilize revenues received from all royalty payments
11 associated with oil and gas mineral operations at state parks that
12 are managed by the Oklahoma Tourism and Recreation Department as
13 follows:

- 14 1. To protect and conserve state park lands, but shall not
15 include routine maintenance expenses of the state parks;
- 16 2. To preserve historic properties under the jurisdiction of
17 the Commission; and
- 18 3. To provide for one-time capital upgrades and improvements of
19 state park resources.

20 B. The Commission shall give priority for funding to the state
21 park from which the royalty payment revenues were initially derived.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2276.2 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Tourism and Recreation Commission shall
5 discharge their duties as trustees of the Oklahoma State Park Trust
6 Fund created in Section 2 of this act, hereafter referred to as the
7 "Trust Fund":

8 1. With the care, skill, prudence, and diligence under the
9 circumstances then prevailing that a prudent person acting in a like
10 capacity and familiar with such matters would use in the conduct of
11 an enterprise of a like character and with like aims;

12 2. By diversifying the investments of the Trust Fund so as to
13 minimize the risk of large losses, unless under the circumstances it
14 is clearly prudent not to do so; and

15 3. In accordance with the laws, documents and instruments
16 governing the Trust Fund.

17 B. The Commission may procure insurance indemnifying the
18 members of the Commission from personal loss or accountability from
19 liability resulting from the action or inaction of a member as a
20 trustee.

21 C. The Commission shall utilize the written investment policy
22 developed by the State Treasurer for the investment of public funds
23 for the investment and management of the Trust Fund. All

1 investments of the Trust Fund shall be consistent with the
2 guidelines set forth in Section 89.2 of Title 62 of the Oklahoma
3 Statutes which establishes the investment requirements for public
4 funds by the State Treasurer.

5 D. Funds and revenues for investment by the Commission shall be
6 placed with a custodian selected by the Commission. Payment of the
7 fees for the services of a custodian may be paid from the income and
8 investment return on the Trust Fund. The custodian shall be a bank
9 or trust company offering pension fund master trustee and master
10 custodial services. The custodian shall be chosen by a solicitation
11 of proposals on a competitive bid basis pursuant to standards set by
12 the Commission. In compliance with the investment policy guidelines
13 of the Commission, the custodian bank or trust company shall be
14 contractually responsible for ensuring that all monies of the Trust
15 Fund are invested in income-producing investment vehicles at all
16 times. If a custodian bank or trust company has not received
17 direction from the Commission as to the investment of the monies of
18 the Trust Fund in specific investment vehicles, the custodian bank
19 or trust company shall be contractually responsible to the
20 Commission for investing the monies in appropriately collateralized
21 short-term interest-bearing investment vehicles.

1 E. By November 1, 2006, and prior to August 1 of each year
2 thereafter, the Commission shall develop a written investment plan
3 for the Trust Fund.

4 F. The Commission shall compile quarterly financial reports of
5 all the funds and accounts of the Trust Fund on a fiscal year basis.
6 The reports shall include several relevant measures of investment
7 value, including acquisition cost and current fair market value with
8 appropriate summaries of total holdings and returns. The report
9 shall be distributed to the Director of the Legislative Service
10 Bureau.

11 G. After July 1 and before October 1 of each year, the
12 Commission shall publish an annual report presented in simple and
13 easily understood language. The report shall be submitted to the
14 Governor, the Speaker of the House of Representatives, the President
15 Pro Tempore of the Senate, and the Director of the Legislative
16 Service Bureau. The annual report shall cover the operation of the
17 Trust Fund during the past fiscal year, including income,
18 disbursements, and the financial condition of the Trust Fund at the
19 end of the fiscal year. The annual report shall also contain the
20 information issued in the quarterly reports required pursuant to
21 subsection F of this section as well as a summary of the results of
22 the most recent actuarial valuation to include total assets, total

1 liabilities, unfunded liability or over-funded status, contributions
2 and any other information deemed relevant by the Commission.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2276.3 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A fiduciary with respect to the Oklahoma State Park Trust
7 Fund created in Section 2 of this act, shall not cause the Trust
8 Fund to engage in a transaction if the fiduciary knows or should
9 know that the transaction constitutes a direct or indirect:

10 1. Sale or exchange, or leasing of any property from the Trust
11 Fund to a party in interest;

12 2. Lending of money or other extension of credit from the Trust
13 Fund to a party in interest;

14 3. Furnishing of goods, services, or facilities from the Trust
15 Fund to a party in interest; or

16 4. Transfer to, or use by or for the benefit of, a party in
17 interest of any assets of the Trust Fund.

18 B. A fiduciary with respect to the Trust Fund shall not:

19 1. Deal with the assets of the Trust Fund in the interest of or
20 for the account of the fiduciary;

21 2. In the individual or any other capacity of the fiduciary act
22 in any transaction involving the Trust Fund on behalf of a party
23 whose interests are adverse to the interests of the Trust Fund; or

1 3. Receive any consideration for the personal account of the
2 fiduciary from any party dealing with the Trust Fund in connection
3 with a transaction involving the assets of the Trust Fund.

4 C. A fiduciary with respect to the Trust Fund may:

5 1. Invest all or part of the assets of the Trust Fund in
6 deposits which bear the highest interest rate available for funds
7 with the necessary degree of availability in a bank or similar
8 financial institution supervised by the United States or a state, if
9 the bank or other institution is a fiduciary of the plan; or

10 2. Provide any ancillary service by a bank or similar financial
11 institution supervised by the United States or a state, if the bank
12 or other institution is a fiduciary of the plan.

13 D. A person or a financial institution is a fiduciary with
14 respect to the Trust Fund to the extent that the person or the
15 financial institution:

16 1. Exercises any discretionary authority or discretionary
17 control respecting management of the Trust Fund or exercises any
18 authority or control respecting management or disposition of the
19 assets of the Trust Fund;

20 2. Renders investment advice for a fee or other compensation,
21 direct or indirect, with respect to any monies or other property of
22 the Trust Fund, or has any authority or responsibility to do so; or

1 3. Has any discretionary authority or discretionary
2 responsibility in the administration of the Trust Fund.

3 SECTION 6. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-5-06 - DO
8 PASS.