

3 Senate Bill No. 1303
4 As Amended

5 SENATE BILL NO. 1303 - By: COFFEE of the Senate and WINCHESTER of
6 the House.

7 [Tobacco Settlement Endowment Trust Fund - powers -
8 competitive process - awards - effective date]

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

10 SECTION 1. AMENDATORY 62 O.S. 2001, Section 2309, is
11 amended to read as follows:

12 Section 2309. A. The Board of Directors of the Tobacco
13 Settlement Endowment Trust Fund shall be empowered to ~~appoint:~~

14 1. Appoint an executive director and other staff necessary to
15 perform the duties of the Board of Directors;

16 2. Make and execute contracts and other instruments necessary
17 or convenient to the exercise of its powers on such terms and for
18 such period of time as its Board of Directors shall determine; and

19 3. Promulgate rules in accordance with the Administrative
20 Procedures Act and not inconsistent with this act to implement its
21 duties and responsibilities under the act.

22 B. The Board shall develop a multiyear strategy by January 1,
23 2002, and annually update it in order to guide the Board's funding
24 for those programs set forth in Section 40 of Article X of the

1 Oklahoma Constitution. The strategy shall be used to maximize the
2 outcomes of the grants awarded by the Board of Directors.

3 C. The Board of Directors shall develop grant programs for
4 private, nonprofit, and public entities for the purposes set forth
5 in Section 40 of Article X of the Oklahoma Constitution.

6 1. The selection and awarding of grants, whether in the form of
7 professional service contracts or any other funding mechanism
8 developed by the Board of Directors, awarded pursuant to grant
9 programs developed under this subsection, shall be exempt from the
10 requirements of the Oklahoma Central Purchasing Act.

11 2. The Board of Directors shall develop competitive processes
12 for awarding grants under programs developed under this subsection.
13 Such competitive processes for selection shall not be required for
14 contracts awarded for program support services, including, but not
15 limited to, professional service contracts to evaluate, audit or
16 provide budgeting, accounting, auditing or legal services for
17 specific programs or program grantees, contractors or participants.

18 3. The Board of Directors may promulgate rules to assist in the
19 implementation and administration of grant programs developed under
20 this subsection.

21 4. The terms of any request for proposals, request for
22 applications, invitation for bid, bid notice, or grant proposal or
23 any other solicitation issued by the Board of Directors to solicit

1 or invite applications, proposals, bids or responses to obtain
2 funding under grant programs developed under this subsection shall
3 be confidential until the date and time at which the solicitation is
4 to be made equally and uniformly known to all prospective applicants
5 and the public, at which point all such documents and information
6 shall be uniformly known to all prospective applicants and the
7 public, at which point all such documents and information shall be
8 subject to the Oklahoma Open Records Act and Oklahoma Open Meeting
9 Act. Any application, proposal, bid, or any other document to
10 obtain funding responsive to any solicitation of the Board of
11 Directors under grant programs developed under this subsection shall
12 be confidential until the date and time of award of the grant or
13 contract, at which point all such documents and information shall be
14 subject to the Oklahoma Open Records Act and Oklahoma Open Meeting
15 Act.

16 D. The Board of Directors shall encourage grantees to match
17 grant monies awarded with monetary commitments and in-kind matches.

18 E. The Board of Directors shall be required to develop a
19 performance evaluation component for the Board of Directors'
20 activities and those of its grantees so that the performance of
21 grantees can be measured by their attainment of outcomes.

22 F. The Board of Directors shall contract periodically for
23 performance evaluations. Copies of the evaluations shall be filed

1 with the Governor, the Speaker of the House of Representatives, and
2 the President Pro Tempore of the Senate.

3 G. The Board of Directors shall prepare an annual report
4 detailing the Board of Directors' activities and reporting its
5 expenditures and the outcomes achieved by the expenditures. A copy
6 of the report shall be submitted to the Governor, the Speaker of the
7 House of Representatives, and the President Pro Tempore of the
8 Senate.

9 H. All records associated with the expenditure of monies
10 received by the Board of Directors or its grantees pursuant to the
11 Tobacco Settlement Endowment Trust Fund Act shall be subject to the
12 Oklahoma Open Records Act.

13 SECTION 2. AMENDATORY 62 O.S. 2001, Section 2310, as
14 amended by Section 2, Chapter 149, O.S.L. 2003 (62 O.S. Supp. 2005,
15 Section 2310), is amended to read as follows:

16 Section 2310. A. The Board of Directors of the Tobacco
17 Settlement Endowment Trust Fund shall adopt a budget for each fiscal
18 year after the Board of Directors has been notified by the Board of
19 Investors of the amount of earnings available for distribution. The
20 budget shall be broken out into an operating budget and a programs
21 budget. The budget shall be presented to the Board of Investors of
22 the Tobacco Settlement Endowment Trust Fund and filed with the
23 Office of State Finance. ~~Operating expenses of the Board of~~

1 ~~Directors shall not exceed Five Hundred Thousand Dollars~~
2 ~~(\$500,000.00) in any fiscal year. This budget shall include the~~
3 ~~operating~~

4 1. The operating budget shall consist of the administrative
5 expenses of the Board of Directors and the administrative expenses
6 of the State Treasurer approved by the Board of Directors of the
7 Tobacco Settlement Endowment Trust Fund. ~~Operating~~

8 a. Administrative expenses include the portion of
9 salaries, travel, and other ~~operating~~ administrative
10 expenses of the Board of Investors and Board of
11 Directors of the Tobacco Settlement Endowment Trust
12 Fund ~~but~~ that cannot be identified with a specific
13 program of the Board of Directors. Administrative
14 expenses allocable to the operating budget may also
15 include, but are not limited to: regular board and
16 committee meetings; staff meetings; personnel or human
17 resource management; board legal services; board
18 consultant services; central purchasing and
19 procurement; board budgeting, accounting and auditing;
20 and public information activities.

21 b. Administrative expenses do not include expenditures
22 which support the programs funded by the Board of
23 Directors program expenses as defined below or the

1 professional expenses paid by the Board of Investors
2 related to the management of the Trust Fund. The fees
3 paid to investment managers and the custodian bank
4 must be properly disclosed and approved by the Board
5 of Investors or authorized staff in the Office of the
6 State Treasurer, but the fees may be paid from assets
7 under management.

8 c. Administrative expenses of the Board of Directors may
9 not exceed fifteen percent (15%) of the annual amount
10 of earnings certified by the Board of Investors.

11 2. The programs budget shall consist of the program expenses of
12 the Board of Directors.

13 a. Program expenses include direct funding awarded to
14 grantees or contractors under grants programs
15 developed by the Board. Program expenses allocable to
16 the programs budget may also include, but are not
17 limited to, staff time, represented by a proportional
18 amount of the employee's salary, and board and staff
19 travel expenses that can be identified to benefit a
20 specific program of the Board of Directors.

21 b. Other expenses allocable to the programs budget may
22 include, but are not limited to: special board and
23 committee meetings to conduct an activity identifiable

1 to a specific program; contracted consultants,
2 technical or program support personnel assigned
3 directly to specific programs; professional services
4 contracts to evaluate, audit or provide budgeting,
5 accounting, auditing or legal services for specific
6 programs or program grantees, contractors or
7 participants; and training or informational activities
8 to inform applicants, contractors, grantees or the
9 public about a specific program developed by the Board
10 of Directors.

11 3. The Board shall develop policies and procedures to define,
12 clarify, and implement the allocation of identified expenses to
13 either the programs or operating budget.

14 4. All operating expenses and program expenses shall be paid
15 out against the amount of earnings from the Tobacco Settlement
16 Endowment Trust Fund.

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

1 needed and determined by the Board of Directors of the Tobacco
2 Settlement Endowment Trust Fund.

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

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

15 SECTION 3. This act shall become effective November 1, 2006.

16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-22-06 - DO
17 PASS, As Amended and Coauthored.