STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1303 By: Coffee

AS INTRODUCED

An Act relating to the Tobacco Settlement Endowment Trust Fund; amending 62 O.S. 2001, Sections 2309 and 2310, as amended by Section 2, Chapter 149, O.S.L. 2003 (62 O.S. Supp. 2005, Section 2310), which relate to powers of the Board of Directors and budgets; expanding powers of Board of Directors; exempting certain actions from the Central Purchasing Act; requiring competitive process for making certain awards; specifying certain contracts for which competitive processes shall not be required; authorizing Board to promulgate certain rules; providing for certain information to be confidential; providing for certain information to be subject to the Oklahoma Open Records Act and Oklahoma Open Meeting Act; modifying restrictions on operating budget; specifying items which may be considered to be administrative expenses; limiting amount of administrative expenses; identifying items which may be part of programs budget; authorizing Board to develop certain policies and procedures; and providing an effective date.

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

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

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

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

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

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

B. The Board shall develop a multiyear strategy by January 1, 2002, and annually update it in order to guide the Board's funding for those programs set forth in Section 40 of Article X of the Oklahoma Constitution. The strategy shall be used to maximize the outcomes of the grants awarded by the Board of Directors.

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

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

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

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

4. The terms of any request for proposals, request for applications, invitation for bid, bid notice, or grant proposal or any other solicitation issued by the Board of Directors to solicit or invite applications, proposals, bids or responses to obtain funding under grant programs developed under this subsection shall be confidential until the date and time at which the solicitation is to be made equally and uniformly known to all prospective applicants and the public, at which point all such documents and information shall be uniformly known to all prospective applicants and the

public, at which point all such documents and information shall be subject to the Oklahoma Open Records Act and Oklahoma Open Meeting Act. Any application, proposal, bid, or any other document to obtain funding responsive to any solicitation of the Board of Directors under grant programs developed under this subsection shall be confidential until the date and time of award of the grant or contract, at which point all such documents and information shall be subject to the Oklahoma Open Records Act and Oklahoma Open Meeting Act.

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

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

F. The Board of Directors shall contract periodically for performance evaluations. Copies of the evaluations shall be filed with the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

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

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

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

Section 2310. A. The Board of Directors of the Tobacco Settlement Endowment Trust Fund shall adopt a budget for each fiscal year after the Board of Directors has been notified by the Board of Investors of the amount of earnings available for distribution. The budget shall be broken out into an operating budget and a programs budget. The budget shall be presented to the Board of Investors of the Tobacco Settlement Endowment Trust Fund and filed with the Office of State Finance. ~~Operating expenses of the Board of Directors shall not exceed Five Hundred Thousand Dollars ($500,000.00) in any fiscal year. This budget shall include the operating~~

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

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

b. Administrative expenses do not include ~~expenditures which support the programs funded by the Board of Directors~~ program expenses as defined below or the professional expenses paid by the Board of Investors

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

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

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

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

b. Other expenses allocable to the programs budget may include, but are not limited to: special board and committee meetings to conduct an activity identifiable to a specific program; contracted consultants, technical or program support personnel assigned directly to specific programs; professional services contracts to evaluate, audit or provide budgeting, accounting, auditing or legal services for specific programs or program grantees, contractors or participants; and training or informational activities to inform applicants, contractors, grantees or the public about a specific program developed by the Board of Directors.

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

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

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

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

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

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

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