

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL 2163

By: Paddock of the Senate

and

Sullivan and Peterson of  
the House

8  
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to damages; creating the Health Care  
11 Indemnity Trust Fund; specifying sources of funding;  
12 creating Health Care Indemnity Trust Fund Board of  
13 Trustees; establishing membership of Board; providing  
14 for appointment of Board members; providing for terms  
15 of initial appointees; providing for succession of  
16 members; authorizing removal of member for cause;  
17 specifying authorized expenditures from fund;  
18 requiring notice to Attorney General under certain  
19 circumstances; authorizing certain intervention;  
20 requiring Attorney General to provide copy of certain  
21 proceedings to Legislature; directing Board to  
22 develop rules and review certain bids; authorizing  
23 Board to take certain actions; directing Board to  
24 solicit certain bids; requiring certain report;  
providing that Board members shall not receive  
salaries; authorizing certain travel expenses;  
providing for the selection of chair and vice-chair;  
requiring quarterly meetings of Board; providing  
quorum requirements; specifying certain exception;  
specifying applicability of Open Meeting Act, Open  
Records Act, and the Administrative Procedures Act to  
Board's activities; requiring submission of certain  
annual report; providing for codification; and  
declaring an emergency.

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

2 SECTION 1. NEW LAW A new section of law to be codified  
3 in the Oklahoma Statutes as Section 61.3 of Title 23, unless there  
4 is created a duplication in numbering, reads as follows:

5 A. There is hereby created a trust fund to be known as the  
6 "Health Care Indemnity Trust Fund". The trust fund principal shall  
7 consist of all funds appropriated, transferred, donated or otherwise  
8 directed to the fund by law and any monies or assets contributed to  
9 the trust fund from any other source, public or private.

10 B. There is hereby created the Board of Trustees of the Health  
11 Care Indemnity Trust Fund. The Board of Trustees shall consist of  
12 seven (7) members, to be appointed as follows:

13 1. The Governor shall select one member;

14 2. The President Pro Tempore of the Senate shall select two  
15 members, one of whom shall be a health care professional;

16 3. The Speaker of the House of Representatives shall select two  
17 members, one of whom shall have expertise and experience in the  
18 insurance and reinsurance industry;

19 4. The Chief Executive Officer of the Oklahoma Health Care  
20 Authority shall select one member; and

21 5. The Insurance Commissioner shall select one member.

22 C. The initially appointed members shall serve staggered terms  
23 as follows:

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1 1. The term of the appointee of the Governor and one appointee  
2 of the President Pro Tempore of the Senate shall expire on June 30,  
3 2011;

4 2. The term of one appointee of the President Pro Tempore shall  
5 expire on June 30, 2012;

6 3. The term of one appointee of the Speaker of the House shall  
7 expire on June 30, 2013;

8 4. The term of the appointee of the Chief Executive Officer of  
9 the Oklahoma Health Care Authority and one appointee of the Speaker  
10 of the House shall expire on June 30, 2014; and

11 5. The term of the appointee of the Insurance Commissioner  
12 shall expire on June 30, 2014.

13 Thereafter, successors shall be appointed for terms of four (4)  
14 years. An appointee may be removed for cause.

15 D. Earnings from the trust fund, including but not limited to  
16 interest, dividends, and realized capital gains from investments of  
17 the trust fund shall be expended to pay a portion of damages awarded  
18 and approved by the district court in professional negligence cases  
19 against physicians in the state following entry of a jury verdict.  
20 However, such expenditures shall be limited to noneconomic damages  
21 as provided in Section 61.2 of Title 23 of the Oklahoma Statutes.

22 E. 1. In any action, suit, or proceeding wherein the earnings  
23 of the trust fund may be expended to pay a portion of noneconomic  
24 damages awarded in professional negligence cases, the court shall

1 certify such fact to the Attorney General, and shall permit the  
2 State of Oklahoma to intervene for presentation of evidence, if  
3 evidence is otherwise admissible in the case. The State of Oklahoma  
4 shall, subject to the applicable provisions of law, have all the  
5 rights of a party and be subject to all liabilities of a party as to  
6 court costs to the extent necessary for a proper presentation of the  
7 facts and law.

8 2. Upon receipt of notice pursuant to paragraph 1 of this  
9 subsection, the Attorney General shall immediately deliver a copy of  
10 the proceeding to the Speaker of the House of Representatives and  
11 the President Pro Tempore of the Senate who may intervene on behalf  
12 of their respective house of the Legislature and who shall be  
13 entitled to be heard. Intervention by the Speaker of the House of  
14 Representatives or President Pro Tempore of the Senate shall not  
15 constitute waiver of legislative immunity.

16 F. The Board of Trustees shall develop rules to request and  
17 review bids for insurance coverage required for the operation of the  
18 trust fund. The Board of Trustees may take any action necessary to  
19 implement the provisions of this act, including but not limited to  
20 retaining counsel. The Board of Trustees shall solicit bids for  
21 such insurance and shall have the authority to select an insurance  
22 broker and/or an administrator to assist in soliciting such bids.  
23 The Board of Trustees shall report the cost of implementing the  
24 trust fund to the Legislature before December 1, 2010.

1 G. Members of the Board of Trustees shall receive no salary for  
2 serving on the Board of Trustees. All members shall receive  
3 necessary travel expenses for the performance of their duties from  
4 the Office of the Governor in accordance with the provisions of the  
5 State Travel Reimbursement Act.

6 H. The Board of Trustees shall annually elect a chair and vice-  
7 chair. The vice-chair shall preside over meetings in the absence of  
8 the chair, and any other officers, provided that no member shall be  
9 elected chair or vice-chair for more than two (2) consecutive years.  
10 The Board of Trustees shall meet at least quarterly. A majority of  
11 the members of the Board of Trustees shall constitute a quorum to  
12 transact business, but no vacancy shall impair the right of the  
13 remaining members to exercise all of the powers of the Board of  
14 Trustees.

15 I. The Board of Trustees shall be subject to the Oklahoma Open  
16 Meeting Act, the Oklahoma Open Records Act and the Administrative  
17 Procedures Act.

18 J. The Board of Trustees shall submit a report of the Health  
19 Care Indemnity Trust Fund's investment and asset value annually to  
20 the Governor and the State Treasurer.

21 SECTION 2. It being immediately necessary for the preservation  
22 of the public peace, health and safety, an emergency is hereby  
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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.

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