

ENROLLED SENATE
BILL NO. 2163

By: Paddack of the Senate

and

Sullivan and Peterson of
the House

An Act relating to damages; creating the Health Care Indemnity Trust Fund; specifying sources of funding; creating Health Care Indemnity Trust Fund Board of Trustees; establishing membership of Board; providing for appointment of Board members; providing for terms of initial appointees; providing for succession of members; authorizing removal of member for cause; specifying authorized expenditures from fund; requiring notice to Attorney General under certain circumstances; authorizing certain intervention; requiring Attorney General to provide copy of certain proceedings to Legislature; directing Board to develop rules and review certain bids; authorizing Board to take certain actions; directing Board to 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.

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

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

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

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

1. The Governor shall select one member;

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

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

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

5. The Insurance Commissioner shall select one member.

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

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

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

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

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

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

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

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

E. 1. In any action, suit, or proceeding wherein the earnings of the trust fund may be expended to pay a portion of noneconomic damages awarded in professional negligence cases, the court shall certify such fact to the Attorney General, and shall permit the State of Oklahoma to intervene for presentation of evidence, if evidence is otherwise admissible in the case. The State of Oklahoma shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law.

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

F. The Board of Trustees shall develop rules to request and review bids for insurance coverage required for the operation of the trust fund. The Board of Trustees may take any action necessary to implement the provisions of this act, including but not limited to

retaining counsel. The Board of Trustees shall solicit bids for such insurance and shall have the authority to select an insurance broker and/or an administrator to assist in soliciting such bids. The Board of Trustees shall report the cost of implementing the trust fund to the Legislature before December 1, 2010.

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

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

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

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

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.

Passed the Senate the 21st day of May, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2010.

Presiding Officer of the House
of Representatives