

THE HOUSE OF REPRESENTATIVES
Wednesday, April 7, 2010

Committee Substitute for
ENGROSSED
Senate Bill No. 2163

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 2163 - By:
PADDACK of the Senate and SULLIVAN 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; authorizing Board to take certain actions; directing Board to develop rules and review certain bids; 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:

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

4 A. There is hereby created a trust fund to be known as the "Health Care Indemnity
5 Trust Fund". The trust fund principal shall consist of all funds appropriated,

1 transferred, donated or otherwise directed to the fund by law and any monies or assets
2 contributed to the trust fund from any other source, public or private.

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

6 1. The Governor shall select one member;

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

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

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

13 5. The Insurance Commissioner shall select one member.

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

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

17 2. The term of one appointee of the President Pro Tempore shall expire on June 30,
18 2012;

19 3. The term of one appointee of the Speaker of the House shall expire on June 30,
20 2013;

1 4. The term of the appointee of the Chief Executive Officer of the Oklahoma Health
2 Care Authority and one appointee of the Speaker of the House shall expire on June 30,
3 2014; and

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

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

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

14 E. The Board of Trustees shall develop rules to request and review bids for
15 insurance coverage required for the operation of the trust fund. The Board of Trustees
16 may take any action necessary to implement the provisions of this act, including but not
17 limited to retaining counsel. The Board of Trustees shall solicit bids for such insurance.
18 The Board of Trustees shall report the cost of implementing the trust fund to the
19 Legislature before December 1, 2010.

20 F. Members of the Board of Trustees shall receive no salary for serving on the
21 Board of Trustees. All members shall receive necessary travel expenses for the

1 performance of their duties from the Office of the Governor in accordance with the
2 provisions of the State Travel Reimbursement Act.

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

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

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

14 SECTION 2. It being immediately necessary for the preservation of the public
15 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
16 this act shall take effect and be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04-06-10 - DO PASS,
18 As Amended.