

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1878

By: Hickman

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5
6 AS INTRODUCED

7 An Act relating to Quartz Mountain; amending 70 O.S.
8 2001, Section 4452, which relates to the transfer of
9 Quartz Mountain properties; providing for the
10 transfer of certain properties associated with Quartz
11 Mountain upon certain action by the Oklahoma State
12 Regents for Higher Education; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 70 O.S. 2001, Section 4452, is
16 amended to read as follows:

17 Section 4452. A. Effective January 1, 2002, the properties
18 defined as Quartz Mountain in Section ~~4~~ 4450 of this ~~act~~ title are
19 hereby transferred from the Oklahoma Tourism and Recreation
20 Commission and the Oklahoma Tourism and Recreation Department to the
21 board of trustees for the Quartz Mountain Arts and Conference Center
22 and Nature Park.

23 B. All Department personnel, in both the classified and
24 unclassified service of the State Merit System of Personnel
Administration, who are assigned as of January 1, 2002, to Quartz

1 Mountain, including related liabilities for sick leave, annual
2 leave, holidays, unemployment benefits and workers' compensation
3 benefits accruing prior to January 1, 2002, to such personnel shall
4 be transferred as of January 1, 2002, to the board. It is the
5 intent of the Legislature that, to the extent possible, the board
6 shall ensure that the employees retain pay and benefits, as much as
7 possible, including longevity, dependent insurance benefits,
8 seniority, rights and other privileges and benefits.

9 Notwithstanding the provisions of the Oklahoma Personnel Act,
10 Department employees assigned to Quartz Mountain on January 1, 2002,
11 shall have the right, at the effective date of January 1, 2002, and
12 not thereafter, to fill a budgeted vacancy in the classified service
13 of the Parks Division in the Department or to fill a budgeted
14 vacancy in the unclassified service in the Golf or Resorts Divisions
15 of the Department, if such employee is qualified. Additionally,
16 filling of vacancies shall be based on seniority order with the
17 State of Oklahoma.

18 C. Appropriate conveyances and other documents shall be
19 executed by January 1, 2002, to effectuate the transfer of Quartz
20 Mountain.

21 D. The State Auditor and Inspector shall determine the amount
22 of funds from available budgetary resources for Quartz Mountain,
23 including any appropriated funds, revolving funds, or sinking funds,
24 that should be transferred on January 1, 2002, from the Department

1 and Commission to the State Regents to continue operation of the
2 Center for the fiscal year ending June 30, 2002, and shall determine
3 the amount that should be reserved to the Department for payment of
4 obligations incurred prior to January 1, 2002. The State Auditor
5 shall consider relevant funding and expenditure history and
6 projected expenditures and expenses related to Quartz Mountain and
7 available budgetary resources for Quartz Mountain in determining the
8 amount to be transferred. The Director of the Office of State
9 Finance is authorized and directed to coordinate and administer the
10 funds transfer. The funds transferred to the State Regents shall
11 not be subject to any budgetary limits that may have attached to the
12 funds when the funds were appropriated to the Department. From July
13 1, 2001, through December 31, 2001, the Department shall not spend
14 or encumber more than the funds budgeted for that period for Quartz
15 Mountain without approval of the State Auditor and Inspector. Any
16 extraordinary costs incurred by the State Auditor in performing the
17 review may be subtracted from the amount transferred on January 1,
18 2002, to the State Regents and paid to the State Auditor.

19 E. The State Regents may establish appropriate funds and
20 accounts, including a revolving fund in the Office of State Finance
21 for servicing the fiscal operations of the Center. Such funds and
22 accounts shall be subject to the direct supervision, management and
23 control of the board of trustees for the Center created in this act.

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1 F. 1. An employee transferred pursuant to the provisions of
2 this act who is a member of the Oklahoma Public Employees Retirement
3 System or the Oklahoma Law Enforcement Retirement System may elect
4 to remain a member of the applicable system or may elect to become a
5 member of the Teachers' Retirement System of Oklahoma. The employee
6 shall file an election on a form prescribed for that purpose with
7 the applicable system not later than January 15, 2002.

8 2. If an employee files an election to remain in the Oklahoma
9 Public Employees Retirement System or the Oklahoma Law Enforcement
10 Retirement System, the board of trustees shall pay the required
11 employer contributions applicable to the participating employers
12 pursuant to Section 920 of Title 74 of the Oklahoma Statutes or
13 Section 2-304 of Title 47 of the Oklahoma Statutes. The employee
14 shall continue to pay employee contributions as required by law.

15 3. If the employee fails to file an election by January 15,
16 2002, the employee shall become a member of the Teachers' Retirement
17 System of Oklahoma.

18 4. Employees who become members of the Teachers' Retirement
19 System of Oklahoma shall acquire service credit in the Teachers'
20 Retirement System pursuant to the provisions of subsection Q of
21 Section 17-116.2 of Title 70 of the Oklahoma Statutes and shall have
22 all service credit with the Oklahoma Public Employees Retirement
23 System canceled. The board of trustees shall make required
24 contributions pursuant to Section 17-108.1 of Title 70 of the

1 Oklahoma Statutes and the employee shall make required contributions
2 imposed pursuant to Section 17-116.2 of Title 70 of the Oklahoma
3 Statutes. The board of trustees and the employees shall be subject
4 to all requirements of the provisions of Sections 17-101 et seq. of
5 Title 70 of the Oklahoma Statutes governing the Teachers' Retirement
6 System of Oklahoma.

7 5. Any employee who is employed by the board after January 1,
8 2002, and who is otherwise eligible for membership in the Oklahoma
9 Teacher's Retirement System or the Oklahoma Law Enforcement
10 Retirement System shall be enrolled during employment by the board
11 of trustees in the Oklahoma Teacher's Retirement System or the
12 Oklahoma Law Enforcement Retirement System, as appropriate.

13 G. The board shall not be responsible for any claims arising
14 under the Governmental Tort Claims Act accrued prior to January 1,
15 2002, claims arising from any other actions accrued prior to January
16 1, 2002, or tort claims arising prior to January 1, 2002, for which
17 no claim has accrued upon the date of transfer. The board shall not
18 be responsible for any claims arising out of construction begun
19 before January 1, 2002, at Quartz Mountain.

20 H. 1. The board shall succeed to any contractual rights and
21 responsibilities the Department or the Commission has incurred on
22 behalf of Quartz Mountain, except as provided in subsection G of
23 this section.

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1 2. The board may enter into one or more contracts for
2 management services of the Center. The duties and benefits arising
3 under any contract for management services of any part of Quartz
4 Mountain entered into by the Commission that is in effect on January
5 1, 2002, shall be assigned to the board. The contract may be
6 renewable at the option of the board but not to exceed a cumulative
7 period of fifty (50) years.

8 3. The Department and the Commission shall execute all
9 necessary documents to memorialize the assignment to the board all
10 rights, responsibilities, and obligations under any and all
11 contracts the Department or the Commission has entered into relating
12 to operation of any part of Quartz Mountain, including the golf
13 course, as provided in this section. The board shall execute any
14 documents necessary to memorialize acceptance of such assignment.
15 In the absence of memorializing documents or conveyances, the
16 transfers including all the assignments shall occur by operation of
17 law.

18 I. The rules of the Commission relating to the operation of
19 Quartz Mountain, such as traffic, fees, and other like matters, that
20 are in effect on January 1, 2002, shall be enforceable by the board
21 until the board establishes rules or until January 1, 2003,
22 whichever occurs earlier. The board shall be exempt from the
23 provisions of Articles I and II of the Administrative Procedures
24 Act.

1 J. In the event that the State Regents express an intent to no
2 longer retain fee title, lease or other interests in the land,
3 including real estate options or real estate contracts, to property
4 held by or on behalf of the board of trustees for the Quartz
5 Mountain Arts and Conference Center and Nature Park, the control of
6 such property shall revert back to the Oklahoma Tourism and
7 Recreation Department. Because of the significance of this
8 property, which was one of the original seven state parks created in
9 Oklahoma, and the recreational importance of retaining this cultural
10 asset in the public domain, the Department shall accept transfer of
11 the property along with all appropriations and capital improvement
12 provisions previously approved for the properties.

13 For purposes of this subsection, "properties" shall include
14 Quartz Mountain nature park, property formerly known as Quartz
15 Mountain State Park, recreation facilities, campgrounds and golf
16 course associated with the Quartz Mountain Arts and Conference
17 Center and Nature Park.

18 SECTION 2. This act shall become effective November 1, 2009.

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