

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1149 By: Griffin of the Senate
3 and
4 Cox of the House
5
6

7 [health care facilities - municipal hospitals -
8 hospitals outside municipal limits - powers and
9 duties - Board of Control - public trusts - effective
10 date]

11 AUTHOR: Add the following House Coauthor: Cockroft

12 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
13 entire bill and insert

14
15 "An Act relating to health care facilities; amending
16 11 O.S. 2011, Section 30-101, which relates to
17 municipal hospitals; authorizing a municipality to
18 operate hospitals outside municipal limits; amending
19 19 O.S. 2011, Section 790.1, which relates to powers
20 and duties; modifying language; granting authority
21 for Board of Control to manage certain medical
22 facilities and institutions; making gender neutral;
23 amending 60 O.S. 2011, Section 176, which relates to
24 public trusts; and allowing public trust to engage
in activities outside certain boundaries.

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

1 SECTION 1. AMENDATORY 11 O.S. 2011, Section 30-101, is
2 amended to read as follows:

3 Section 30-101. A municipal governing body may establish and
4 maintain a municipal hospital and do all things necessary and proper
5 in its discretion pursuant to the authority granted to it by the
6 Constitution and laws of this state to further the ability of the
7 municipality to provide hospital service. After the establishment
8 of a municipal hospital, the governing body shall include an item in
9 its municipal financial statement and estimate of needs for the
10 following fiscal year to maintain the hospital. The municipal
11 governing body may engage in transactions to manage, lease or
12 operate a medical facility outside the municipal limits to provide a
13 benefit to the community or lessen the burden of government which
14 does not solely provide a benefit by generating administrative fees.

15 SECTION 2. AMENDATORY 19 O.S. 2011, Section 790.1, is
16 amended to read as follows:

17 Section 790.1 ~~(a)~~ A. Upon the appointment of a Board of
18 Control to manage a county hospital, the members of the Board of
19 Control shall within ten (10) days after their appointment qualify
20 by taking an oath in the form required of county officers, and
21 ~~organizing~~ organize the Board of Control by the election of one
22 member as ~~chairman~~ chair, one member as ~~vice-chairman~~ vice-chair,
23 one member as secretary~~r~~, and one member as treasurer~~r~~i; however, the
24 secretary and treasurer may be the same person, and electing or

1 appointing such other officer or officers as ~~they~~ the Board may deem
2 necessary, but only the treasurer shall be bonded. The proportional
3 share of the county blanket bond premium for such person shall be
4 paid out of the county hospital fund. Every one (1) year
5 thereafter, at the first meeting of the Board of Control following
6 the appointment or reappointment of board members, a reorganization
7 meeting shall be held and officers selected as hereinbefore stated.
8 Such Board of Control shall hold meetings at least once each month,
9 shall keep a complete record of all its proceedings, and a majority
10 of ~~said board~~ the Board shall constitute a quorum for the
11 transaction of business. The district attorney, or his or her
12 assistant, shall serve as attorney for the Board of Control without
13 additional compensation~~;~~ however, the ~~board~~ Board may employ other
14 counsel and pay for such service from the general funds of ~~such~~ the
15 hospital, provided a majority of the ~~board~~ Board shall determine
16 such employment to be in the best interest of the hospital. No
17 member of the Board of Control shall have a personal pecuniary
18 interest either directly or indirectly in any purchases or contracts
19 for ~~said~~ the hospital unless the same are purchased or awarded by
20 competitive bids.

21 ~~(b)~~ B. The Board of Control shall in management of a county
22 hospital:
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24

1 1. Have exclusive control, supervision, care and custody of the
2 grounds, property, and buildings purchased, constructed, leased, or
3 set apart for such hospital purposes-;

4 2. Employ a competent administrator as the executive officer of
5 the hospital and fix his or her compensation. ~~He~~ The administrator
6 shall be covered by the county blanket bond and the proportional
7 share of the premium shall be paid out of the county hospital fund-;

8 3. Establish the fiscal year of the hospital and, not later
9 than ninety (90) days after close of the fiscal year, file with the
10 county clerk of ~~said~~ the county a report of the proceedings with
11 reference to such hospital and a statement of all receipts and
12 expenditures during the preceding fiscal year, and shall adopt a
13 budget, such budget to show the amount necessary to maintain and
14 improve ~~said~~ the hospital for the ensuing fiscal year. A complete
15 audit to be required at the end of each fiscal year is to be
16 performed by a licensed accountant-;

17 4. Cause not less than one of its members to visit and inspect
18 ~~said~~ the hospital at least once each month. It shall be the duty of
19 the Board of Control to admit, upon recommendation of a physician,
20 without expense to the patient, all county charity patients
21 certified to be such by ~~said~~ the Board of Control, in need of
22 medical or surgical treatment; and all other patients admitted to
23 ~~said~~ the hospital for treatment shall be charged a just and
24

1 reasonable price for their medical and surgical treatment while in
2 the custody of ~~said~~ the hospital-;

3 5. Adopt a policy of admission of patients for ~~said~~ the county
4 hospital-;

5 6. Have authority to authorize ~~said~~ the hospital to be a member
6 of and maintain membership in any local, state, or national group
7 association organized and operated for the promotion of the public
8 health and welfare or the advancement of the efficiency of hospital
9 administration and in connection therewith to pay dues and fees
10 therefor from the county hospital fund-;

11 7. Have authority to establish or participate in health related
12 educational programs-;

13 8. Have authority to procure and pay out of the county hospital
14 fund premiums on any and all insurance policies required for the
15 prudent management of the hospital, including, but not limited to,
16 public liability, professional malpractice liability, ~~workmen's~~
17 workers' compensation, vehicle liability, life, health and accident
18 plans, and to make contributions to the Public Employees' Retirement
19 System of the state. ~~Said~~ The insurance may include as additional
20 insureds the Board of Control and employees of the hospital-;

21 9. Determine when there is a surplus in any of the funds of the
22 hospital and if so determined may invest such surplus in United
23 States Government Bonds or insured securities or in insured time
24 deposits until such time as in the judgment of the Board of Control

1 it is deemed advisable to use such funds for hospital purposes,
2 including, but not limited to, the purchase of equipment, repair,
3 remodeling, ~~or new construction of hospital property;~~

4 10. Either as a board or through the administrator, use
5 reasonable diligence and efforts to make collections of accounts for
6 hospital services rendered;

7 11. Have authority to adopt such bylaws, rules and regulations
8 as ~~they deem~~ the Board deems desirable for ~~their~~ its own guidance
9 and the administration of the hospital, not inconsistent with the
10 law;

11 12. Have authority to undertake the management, lease or
12 operation of any other medical facility or institution located
13 outside of the county to provide a benefit to the community or
14 lessen the burden of government and which does not solely provide a
15 benefit by generating administrative fees; and

16 13. Do all things necessary for the management, control, and
17 government of ~~said~~ the hospital and exercise all the rights and
18 duties pertaining to hospital boards generally, unless such rights
19 are specifically denied or prohibited by law.

20 ~~(e)~~ C. In the operation of a county hospital by the Board of
21 Control the following funds shall be established in connection with
22 a county hospital:

23 1. The proceeds from the sale of bonds, as provided in Section
24 784 of this title, shall be deposited in a fund known as the "County

1 Hospital Bond Fund" in the treasury of the county, which shall be
2 paid out by the county treasurer upon the orders of the board of
3 county commissioners from time to time as the same is needed; and

4 2. The proceeds from the tax levy provided by Section 786 of
5 this title, and funds received by the hospital for services or
6 otherwise not specifically designated to a special fund by the Board
7 of Control shall be deposited in the treasury of the county in the
8 "County Hospital Fund". Current receipts by the hospital, including
9 tuition fees of any school operated by the hospital, shall be
10 deposited in ~~said~~ the fund at least every week. ~~Such~~ The money in
11 the "County Hospital Fund" shall be paid out only upon itemized and
12 acknowledged claims duly approved by the Board of Control or in the
13 procedure prescribed by ~~said board~~ the Board by warrants drawn by
14 the administrator or such other person as may be designated by the
15 Board of Control, which warrants must be authenticated by the
16 treasurer of the Board of Control or a duly qualified officer of the
17 Board of Control. If a county hospital shall operate a home for
18 nurses, then the current receipts of ~~said~~ the home for nurses shall
19 be deposited with the county treasurer in the Home for Nurses Fund.

20 ~~(d)~~ D. The Board of Control may by resolution establish such
21 other funds as it deems advisable for the efficient and proper
22 management of the hospital, which may or may not be in the county
23 treasury, and prescribe the procedure for the handling, expending,
24 and withdrawal of such funds. All checks to be signed by the

1 administrator or his or her assistant and one member of the Board of
2 Control.

3 1. If a majority of the Board of Control shall vote in favor of
4 the establishment of a refund account, then the ~~board~~ Board shall
5 designate a bank, and set up an account. Thereafter, when it
6 becomes necessary to refund monies to a patient for the overpayment
7 of an account, a check shall be drawn on ~~said~~ the refund account,
8 and after ~~said~~ the check has been signed by the administrator or ~~his~~
9 a designee and one member of the Board of Control, the same shall be
10 delivered to ~~said~~ the patient. The account may be replenished as
11 deemed necessary.

12 After the establishment of ~~said~~ the account, the administrator
13 shall certify the list of actual refunds which have been made to
14 patients during the interim since last approval. Upon acceptance by
15 the Board of Control, the certified list of refunds shall be used to
16 support the preparation of a warrant to be drawn on the county
17 treasurer and charged to county hospital fund for the replenishment
18 of ~~said~~ the refund account.

19 2. If a majority of the Board of Control shall vote in favor of
20 the establishment of a salary account, the ~~board~~ Board shall then
21 designate a bank covered by F.D.I.C., set up an account, and deposit
22 a warrant drawn upon the "County Hospital Fund", not to exceed One
23 Thousand Dollars (\$1,000.00) in amount, to open the account, and the
24 necessary resolutions requisite to the establishment of an account

1 shall be performed. Thereafter, as soon as the complete payroll has
2 been prepared, a warrant shall be drawn upon the "County Hospital
3 Fund" for the amount of the payroll and deposited in the salary fund
4 of _____ Hospital. The individual payroll checks shall be signed
5 by the administrator or ~~his~~ a designee and one member of the Board
6 of Control.

7 3. If a majority of the Board of Control shall vote in favor of
8 the establishment of a Nursing Home Operating Account, then a bank
9 account shall be opened in a bank designated as a state or county
10 depository.

11 Thereafter the Board of Control shall draw a warrant on the
12 county treasurer to be charged to the Nursing Home Fund, ~~said~~ the
13 warrant to be in the exact amount of a certified list of current
14 obligations of ~~said~~ the nursing home. ~~Said~~ The list shall be drawn
15 by the administrator and certified by him or her to the Board of
16 Control and shall contain the details of all expenditures to be made
17 for the nursing home for the previous months' operations including
18 salaries.

19 The proceeds of ~~said~~ the warrant shall then be deposited in the
20 Nursing Home Operating Account in the bank above designated.
21 Thereafter the administrator shall prepare individual checks in
22 payment of the list of current obligations. Provided, however, that
23 ~~said~~ the checks shall be signed by the administrator and by one
24 member of the Board of Control.

1 4. If a majority of the Board of Control shall vote in favor of
2 the establishment of a Petty Cash Account, then a warrant shall be
3 drawn on the county treasurer in an amount not to exceed the sum of
4 One Hundred Dollars (\$100.00). The warrant shall be charged by the
5 county treasurer to the Hospital Fund. The proceeds of ~~said~~ the
6 warrant shall be used for the payment of small bills for freight,
7 postage due, minor expenses, et cetera, all of a minor amount; and
8 the hospital shall secure proper receipts for the disbursement of
9 ~~said~~ the proceeds.

10 Thereafter, the administrator shall certify the list of petty
11 expenditures, and, after approval by the Board of Control, a warrant
12 shall be drawn on the county treasurer, County Hospital Fund, for
13 the replenishment of ~~said~~ the petty cash account.

14 Likewise, and in the same manner, a petty cash account may be
15 established in any nursing home or related institution of the same
16 if operated by the hospital.

17 5. If a majority of the Board of Control shall vote in favor of
18 the use of a facsimile signature machine in signing checks upon the
19 "County Hospital Fund" or any other fund, a machine shall be
20 utilized to imprint the facsimile signature of the administrator and
21 the treasurer of the Board of Control upon ~~said~~ the checks. Proper
22 procedures must be implemented to control the use of the signature
23 machine; such controls to be established by the Board of Control.
24 Any person having a key to operate the machine shall be bonded by

1 the county blanket bond and the company furnishing the machine shall
2 furnish a surety bond in an amount not less than Ten Thousand
3 Dollars (\$10,000.00) to protect and indemnify against bogus or
4 forged checks or warrants from being issued from the machine.

5 ~~(e)~~ E. Any unencumbered balances in any of the funds of the
6 county hospital at the close of the fiscal year shall not lapse, but
7 shall be carried forward to the next fiscal year.

8 ~~(f)~~ F. The provisions of the Oklahoma Statutes relative to
9 counties or funds of counties, except ~~Sections~~ Section 781 et seq.
10 of this title, shall not be applicable to county hospitals.

11 SECTION 3. AMENDATORY 60 O.S. 2011, Section 176, is
12 amended to read as follows:

13 Section 176. A. Express trusts may be created to issue
14 obligations, enter into financing arrangements including, but not
15 limited to, lease-leaseback, sale-leaseback, interest rate swaps and
16 other similar transactions and to provide funds for the furtherance
17 and accomplishment of any authorized and proper public function or
18 purpose of the state or of any county or municipality or any and all
19 combinations thereof, in real or personal property, or either or
20 both, or in any estate or interest in either or both, with the
21 state, or any county or municipality or any and all combinations
22 thereof, as the beneficiary thereof by:

23 1. The express approval of the Legislature and the Governor if
24 the State of Oklahoma is the beneficiary;

1 2. The express approval of two-thirds (2/3) of the membership
2 of the governing body of the beneficiary if a county is a
3 beneficiary;

4 3. The express approval of two-thirds (2/3) of the membership
5 of the governing body of the beneficiary if a municipality is a
6 beneficiary; or

7 4. The express approval of two-thirds (2/3) of the membership
8 of the governing body of each beneficiary in the event a trust has
9 more than one beneficiary; provided, that no funds of a beneficiary
10 derived from sources other than the trust property, or the operation
11 thereof, shall be charged with or expended for the execution of the
12 trust, except by express action of the legislative authority of the
13 beneficiary prior to the charging or expending of the funds. The
14 officers or any other governmental agencies or authorities having
15 the custody, management, or control of any property, real or
16 personal or mixed, of the beneficiary of the trust, or of a proposed
17 trust, which property shall be needful for the execution of the
18 trust purposes, are authorized and empowered to lease the property
19 for those purposes, after the acceptance of the beneficial interest
20 therein by the beneficiary as hereinafter provided.

21 B. Any trust created pursuant to the provisions of this
22 section, in whole or in part, may engage in activities outside of
23 the geographic boundaries of its beneficiary, so long as the
24 activity provides a benefit to a large class of the public within

1 the beneficiary's geographic area or lessens the burdens of
2 government of the beneficiary and which does not solely provide a
3 benefit by generating administrative fees.

4 C. A municipality may convey title to real property which is
5 used for an airport to the trustees of an industrial development
6 authority trust whose beneficiary is the municipality. The
7 industrial development authority trust must already have the
8 custody, management, or control of the real property. The
9 conveyance must be approved by a majority of the governing body of
10 the municipality. A conveyance pursuant to this section may be made
11 only for the sole purpose of allowing the authority to sell the
12 property for fair market value when the property is to be used for
13 industrial development purposes. Conveyances made pursuant to this
14 subsection shall be made subject to any existing reversionary
15 interest or other restrictions burdening the property and subject to
16 any reversionary interest or other restriction considered prudent by
17 the municipality.

18 ~~C.~~ D. The trustees of a public trust having the State of
19 Oklahoma as beneficiary shall make and adopt bylaws for the due and
20 orderly administration and regulation of the affairs of the public
21 trust. All bylaws of a public trust having the State of Oklahoma as
22 beneficiary shall be submitted in writing to the Governor of the
23 State of Oklahoma. The Governor must approve the proposed bylaws
24 before they take effect.

1 ~~D.~~ E. No public trust in which the State of Oklahoma is the
2 beneficiary may be amended without a two-thirds (2/3) vote of
3 approval of the trustees of the trust; provided, that any amendment
4 is subject to the approval of the Governor of the State of Oklahoma.
5 Any amendments shall be sent to the Governor within fifteen (15)
6 days of their adoption.

7 ~~E.~~ F. No trust in which a county or municipality is the
8 beneficiary shall hereafter create an indebtedness or obligation
9 until the indebtedness or obligation has been approved by a two-
10 thirds (2/3) vote of the governing body of the beneficiary. In the
11 event a trust has more than one beneficiary, as authorized by this
12 section, the trust shall not incur an indebtedness or obligation
13 until the indebtedness or obligation has been approved by a two-
14 thirds (2/3) vote of the governing body of two-thirds (2/3) of the
15 beneficiaries of the trust.

16 ~~F.~~ G. All bonds described in subsection ~~E~~ F of this section,
17 after December 1, 1976, except bonds sold to the federal government
18 or any agency thereof or to any agency of the State of Oklahoma,
19 shall be awarded to the lowest and best bidder based upon open
20 competitive public offering, advertised at least once a week for two
21 (2) successive weeks in a newspaper of general circulation in the
22 county where the principal office of the trust is located prior to
23 the date on which bids are received and opened; provided,
24 competitive bidding may be waived on bond issues with the approval

1 of three-fourths (3/4) of the trustees, and a three-fourths (3/4)
2 vote of the governing body of the beneficiary, unless the
3 beneficiary is a county in which case a two-thirds (2/3) vote of the
4 members of the governing body shall be required, or three-fourths
5 (3/4) vote of the governing bodies of each of the beneficiaries of
6 the trust, unless one of the beneficiaries is a county in which case
7 a two-thirds (2/3) vote of the members of the governing body of such
8 county shall be required. No bonds shall be sold for less than par
9 value, except upon approval of three-fourths (3/4) of the trustees,
10 unless the beneficiary is a county in which case a two-thirds (2/3)
11 vote of the members of the governing body shall be required. In no
12 event shall bonds be sold for less than sixty-five percent (65%) of
13 par value; provided, however, in no event shall the original
14 purchaser from the issuer of any bonds issued by any public trust
15 for any purpose receive directly or indirectly any fees,
16 compensation, or other remuneration in excess of four percent (4%)
17 of the price paid for the bonds by the purchaser of the bonds from
18 the original purchaser; and further provided, that the average
19 coupon rate thereon shall in no event exceed fourteen percent (14%)
20 per annum. No public trust shall sell bonds for less than ninety-
21 six percent (96%) of par value until the public trust has received
22 from the underwriter or financial advisor or, in the absence of an
23 underwriter or financial advisor, the initial purchaser of the
24 bonds, an estimated alternative financing structure or structures

1 showing the estimated total interest and principal cost of each
2 alternative. At least one alternative financing structure shall
3 include bonds sold to the public at par. Any estimates shall be
4 considered a public record of the public trust. Bonds, notes or
5 other evidences of indebtedness issued by any public trust shall be
6 eligible for purchase by any state banking association or
7 corporation subject to such limitations as to investment quality as
8 may be imposed by regulations, rules or rulings of the State Banking
9 Commissioner.

10 ~~G.~~ H. Public trusts created pursuant to this section shall file
11 annually, with their respective beneficiaries, copies of financial
12 documents and reports sufficient to demonstrate the fiscal activity
13 of such trust, including, but not limited to, budgets, financial
14 reports, bond indentures, and audits. Amendments to the adopted
15 budget shall be approved by the trustees of the public trust and
16 recorded as such in the official minutes of such trust.

17 ~~H.~~ I. Contracts for construction, labor, equipment, material or
18 repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be
19 awarded by public trusts to the lowest and best competitive bidder,
20 pursuant to public invitation to bid, which shall be published in
21 the manner provided in the preceding section hereof; the
22 advertisements shall appear in the county where the work, or the
23 major part of it, is to be done, or the equipment or materials are
24 to be delivered, or the services are to be rendered; provided,

1 however, should the trustee or the trustees find that an immediate
2 emergency exists, which findings shall be entered in the journal of
3 the trust proceedings, by reason of which an immediate outlay of
4 trust funds in an amount exceeding Fifty Thousand Dollars
5 (\$50,000.00) is necessary in order to avoid loss of life,
6 substantial damage to property, or damage to the public peace or
7 safety, then the contracts may be made and entered into without
8 public notice or competitive bids; provided that the provisions of
9 this subsection shall not apply to contracts of industrial and
10 cultural trusts. Notwithstanding the provisions of this subsection,
11 equipment or materials may be purchased by a public trust directly
12 from any contract duly awarded by this state or any state agency
13 under The Oklahoma Central Purchasing Act, or from any contract duly
14 awarded by a governmental entity which is the beneficiary of the
15 public trust.

16 ~~I.~~ J. Any public trust created pursuant to the provisions of
17 this section shall have the power to acquire lands by use of eminent
18 domain in the same manner and according to the procedures provided
19 for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes.
20 Any exercise of the power of eminent domain by a public trust
21 pursuant to the provisions of this section shall be limited to the
22 furtherance of public purpose projects involving revenue-producing
23 utility projects of which the public trust retains ownership;
24 provided, for public trusts in which the State of Oklahoma is the

1 beneficiary the exercise of the power of eminent domain may also be
2 used for public purpose projects involving air transportation.
3 Revenue-producing utility projects shall be limited to projects for
4 the transportation, delivery, treatment, or furnishing of water for
5 domestic purposes or for power, including, but not limited to, the
6 construction of lakes, pipelines, and water treatment plants or for
7 projects for rail transportation. Any public trust formed pursuant
8 to this section which has a county as its beneficiary shall have the
9 power to acquire, by use of eminent domain, any lands located either
10 inside the county, or contiguous to the county pursuant to the
11 limitations imposed pursuant to this section.

12 ~~J.~~ K. Provisions of this section shall not apply to entities
13 created under Sections 1324.1 through 1324.26 of Title 82 of the
14 Oklahoma Statutes.

15 ~~K.~~ L. Any trust created under this act, in whole or in part, to
16 operate, administer or oversee any county jail facility shall
17 consist of not less than five members and include a county
18 commissioner and the county sheriff, or their designee, and one
19 member appointed by each of the county commissioners. The appointed
20 members shall not be elected officials."
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