ENGROSSED SENATE
BILL NO. 1149 By: Griffin of the Senate

and

Cox of the House

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

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

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

Section 30-101. A municipal governing body may establish and maintain a municipal hospital and do all things necessary and proper in its discretion pursuant to the authority granted to it by the Constitution and laws of this state to further the ability of the municipality to provide hospital service. After the establishment of a municipal hospital, the governing body shall include an item in its municipal financial statement and estimate of needs for the following fiscal year to maintain the hospital. <u>The municipal governing body may engage in transactions to manage, lease or operate a medical facility outside the municipal limits to provide an economic benefit to the community or lessen the burden of</u>

government which does not solely provide a benefit by generating administrative fees.

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

Section 790.1. ~~(a)~~ A. Upon the appointment of a Board of Control to manage a county hospital, the members of the Board of Control shall within ten (10) days after their appointment qualify by taking an oath in the form required of county officers, ~~organizing~~ organize the Board of Control by the election of one member as ~~chairman~~ chair, one member as ~~vice-chairman~~ vice-chair, one member as secretary, and one member as treasurer~~,~~; however, the secretary and treasurer may be the same person, and electing or appointing such other officer or officers as ~~they~~ the Board may deem necessary, but only the treasurer shall be bonded. The proportional share of the county blanket bond premium for such person shall be paid out of the county hospital fund. Every one (1) year thereafter, at the first meeting of the Board of Control following the appointment or reappointment of board members, a reorganization meeting shall be held and officers selected as hereinbefore stated. Such Board of Control shall hold meetings at least once each month, shall keep a complete record of all its proceedings, and a majority of ~~said board~~ the Board shall constitute a quorum for the transaction of business. The district attorney, or his or her assistant, shall serve as attorney for the Board of Control without

additional compensation~~,~~; however, the board may employ other counsel and pay for such service from the general funds of ~~such~~ the hospital, provided a majority of the ~~board~~ Board shall determine such employment to be in the best interest of the hospital. No member of the Board of Control shall have a personal pecuniary interest either directly or indirectly in any purchases or contracts for ~~said~~ the hospital unless the same are purchased or awarded by competitive bids.

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

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

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

3. Establish the fiscal year of the hospital and, not later than ninety (90) days after close of the fiscal year, file with the county clerk of ~~said~~ the county a report of the proceedings with reference to such hospital and a statement of all receipts and expenditures during the preceding fiscal year, and shall adopt a budget, such budget to show the amount necessary to maintain and improve ~~said~~ the hospital for the ensuing fiscal year. A complete

audit to be required at the end of each fiscal year is to be performed by a licensed accountant.

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

5. Adopt a policy of admission of patients for ~~said~~ the county hospital.

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

7. Have authority to establish or participate in health related educational programs.

8. Have authority to procure and pay out of the county hospital fund premiums on any and all insurance policies required for the prudent management of the hospital, including, but not limited to,

public liability, professional malpractice liability, ~~workmen's~~ workers' compensation, vehicle liability, life, health and accident plans, and to make contributions to the Public Employees' Retirement System of the state. ~~Said~~ The insurance may include as additional insureds the Board of Control and employees of the hospital.

9. Determine when there is a surplus in any of the funds of the hospital and if so determined may invest such surplus in United States Government Bonds or insured securities or in insured time deposits until such time as in the judgment of the Board of Control it is deemed advisable to use such funds for hospital purposes, including, but not limited to, the purchase of equipment, repair, remodeling~~,~~ or new construction of hospital property.

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

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

12. Have authority to undertake the management, lease or operation of any other medical facility or institution.

13. Do all things necessary for the management, control, and government of ~~said~~ the hospital and exercise all the rights and

duties pertaining to hospital boards generally, unless such rights are specifically denied or prohibited by law.

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

1. The proceeds from the sale of bonds, as provided in Section 784 of this title, shall be deposited in a fund known as the "county hospital bond fund" in the treasury of the county, which shall be paid out by the county treasurer upon the orders of the board of county commissioners from time to time as the same is needed.

2. The proceeds from the tax levy provided by Section 786 of this title, and funds received by the hospital for services or otherwise not specifically designated to a special fund by the Board of Control shall be deposited in the treasury of the county in the "county hospital fund". Current receipts by the hospital, including tuition fees of any school operated by the hospital, shall be deposited in ~~said~~ the fund at least every week. ~~Such~~ The money in the "county hospital fund" shall be paid out only upon itemized and acknowledged claims duly approved by the Board of Control or in the procedure prescribed by ~~said~~ the board by warrants drawn by the administrator or such other person as may be designated by the Board of Control, which warrants must be authenticated by the treasurer of the Board of Control or a duly qualified officer of the Board of Control. If a county hospital shall operate a home for nurses, then

the current receipts of ~~said~~ the home for nurses shall be deposited with the county treasurer in the Home for Nurses Fund.

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

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

After the establishment of ~~said~~ the account, the administrator shall certify the list of actual refunds which have been made to patients during the interim since last approval. Upon acceptance by the Board of Control, the certified list of refunds shall be used to support the preparation of a warrant to be drawn on the county

treasurer and charged to county hospital fund for the replenishment of ~~said~~ the refund account.

2. If a majority of the Board of Control shall vote in favor of the establishment of a salary account, the ~~board~~ Board shall then designate a bank covered by F.D.I.C., set up an account~~,~~ and deposit a warrant drawn upon the "county hospital fund", not to exceed One Thousand Dollars ($1,000.00) in amount, to open the account, and the necessary resolutions requisite to the establishment of an account shall be performed. Thereafter, as soon as the complete payroll has been prepared, a warrant shall be drawn upon the "county hospital fund" for the amount of the payroll and deposited in the salary fund of _____ Hospital. The individual payroll checks shall be signed by the administrator or ~~his~~ a designee and one member of the Board of Control.

3. If a majority of the Board of Control shall vote in favor of the establishment of a nursing home operating account, then a bank account shall be opened in a bank designated as a state or county depository.

Thereafter the Board of Control shall draw a warrant on the county treasurer to be charged to the nursing home fund, ~~said~~ the warrant to be in the exact amount of a certified list of current obligations of ~~said~~ the nursing home. ~~Said~~ The list shall be drawn by the administrator and certified by him or her to the Board of Control and shall contain the details of all expenditures to be made

for the nursing home for the previous months' operations including salaries.

The proceeds of ~~said~~ the warrant shall then be deposited in the nursing home operating account in the bank above designated. Thereafter the administrator shall prepare individual checks in payment of the list of current obligations. Provided, however, that ~~said~~ the checks shall be signed by the administrator and by one member of the Board of Control.

4. If a majority of the Board of Control shall vote in favor of the establishment of a petty cash account, then a warrant shall be drawn on the county treasurer in an amount not to exceed the sum of One Hundred Dollars ($100.00). The warrant shall be charged by the county treasurer to the hospital fund. The proceeds of ~~said~~ the warrant shall be used for the payment of small bills for freight, postage due, minor expenses, et cetera, all of a minor amount; and the hospital shall secure proper receipts for the disbursement of ~~said~~ the proceeds.

Thereafter, the administrator shall certify the list of petty expenditures~~,~~ and, after approval by the Board of Control, a warrant shall be drawn on the county treasurer, county hospital fund, for the replenishment of ~~said~~ the petty cash account.

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

5. If a majority of the Board of Control shall vote in favor of the use of a facsimile signature machine in signing checks upon the "county hospital fund" or any other fund, a machine shall be utilized to imprint the facsimile signature of the administrator and the treasurer of the Board of Control upon ~~said~~ the checks. Proper procedures must be implemented to control the use of the signature machine; such controls to be established by the Board of Control. Any person having a key to operate the machine shall be bonded by the county blanket bond and the company furnishing the machine shall furnish a surety bond in an amount not less than Ten Thousand Dollars ($10,000.00) to protect and indemnify against bogus or forged checks or warrants from being issued from the machine.

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

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

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

Section 176. A. Express trusts may be created to issue obligations, enter into financing arrangements including, but not limited to, lease-leaseback, sale-leaseback, interest rate swaps and other similar transactions and to provide funds for the furtherance

and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality or any and all combinations thereof, in real or personal property, or either or both, or in any estate or interest in either or both, with the state, or any county or municipality or any and all combinations thereof, as the beneficiary thereof by:

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

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

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

4. The express approval of two-thirds (2/3) of the membership of the governing body of each beneficiary in the event a trust has more than one beneficiary; provided, that no funds of a beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of the trust, except by express action of the legislative authority of the beneficiary prior to the charging or expending of the funds. The officers or any other governmental agencies or authorities having the custody, management, or control of any property, real or personal or mixed, of the beneficiary of the trust, or of a proposed

trust, which property shall be needful for the execution of the trust purposes, are authorized and empowered to lease the property for those purposes, after the acceptance of the beneficial interest therein by the beneficiary as hereinafter provided.

B. Any trust created pursuant to the provisions of this section, in whole or in part, may engage in activities outside of the geographic boundaries of its beneficiary, so long as the activity provides a benefit to a large class of the public within the beneficiary's geographic area or lessen the burdens of government of the beneficiary which does not solely provide a benefit by generating administrative fees.

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

any reversionary interest or other restriction considered prudent by the municipality.

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

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

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

~~F.~~ G. All bonds described in subsection E of this section, after December 1, 1976, except bonds sold to the federal government or any agency thereof or to any agency of the State of Oklahoma, shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the principal office of the trust is located prior to the date on which bids are received and opened; provided, competitive bidding may be waived on bond issues with the approval of three-fourths (3/4) of the trustees, and a three-fourths (3/4) vote of the governing body of the beneficiary, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required, or three-fourths (3/4) vote of the governing bodies of each of the beneficiaries of the trust, unless one of the beneficiaries is a county in which case a two-thirds (2/3) vote of the members of the governing body of such county shall be required. No bonds shall be sold for less than par value, except upon approval of three-fourths (3/4) of the trustees, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required. In no event shall bonds be sold for less than sixty-five percent (65%) of par value; provided, however, in no event shall the original purchaser from the issuer of any bonds issued by any public trust for any purpose receive directly or indirectly any fees,

compensation, or other remuneration in excess of four percent (4%) of the price paid for the bonds by the purchaser of the bonds from the original purchaser; and further provided, that the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum. No public trust shall sell bonds for less than ninety-six percent (96%) of par value until the public trust has received from the underwriter or financial advisor or, in the absence of an underwriter or financial advisor, the initial purchaser of the bonds, an estimated alternative financing structure or structures showing the estimated total interest and principal cost of each alternative. At least one alternative financing structure shall include bonds sold to the public at par. Any estimates shall be considered a public record of the public trust. Bonds, notes or other evidences of indebtedness issued by any public trust shall be eligible for purchase by any state banking association or corporation subject to such limitations as to investment quality as may be imposed by regulations, rules or rulings of the State Banking Commissioner.

~~G.~~ H. Public trusts created pursuant to this section shall file annually, with their respective beneficiaries, copies of financial documents and reports sufficient to demonstrate the fiscal activity of such trust, including, but not limited to, budgets, financial reports, bond indentures, and audits. Amendments to the adopted

budget shall be approved by the trustees of the public trust and recorded as such in the official minutes of such trust.

~~H.~~ I. Contracts for construction, labor, equipment, material or repairs in excess of Fifty Thousand Dollars ($50,000.00) shall be awarded by public trusts to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published in the manner provided in the preceding section hereof; the advertisements shall appear in the county where the work, or the major part of it, is to be done, or the equipment or materials are to be delivered, or the services are to be rendered; provided, however, should the trustee or the trustees find that an immediate emergency exists, which findings shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of trust funds in an amount exceeding Fifty Thousand Dollars ($50,000.00) is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then the contracts may be made and entered into without public notice or competitive bids; provided that the provisions of this subsection shall not apply to contracts of industrial and cultural trusts. Notwithstanding the provisions of this subsection, equipment or materials may be purchased by a public trust directly from any contract duly awarded by this state or any state agency under the Oklahoma Central Purchasing Act, or from any contract duly

awarded by a governmental entity which is the beneficiary of the public trust.

~~I.~~ J. Any public trust created pursuant to the provisions of this section shall have the power to acquire lands by use of eminent domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes. Any exercise of the power of eminent domain by a public trust pursuant to the provisions of this section shall be limited to the furtherance of public purpose projects involving revenue-producing utility projects of which the public trust retains ownership; provided, for public trusts in which the State of Oklahoma is the beneficiary the exercise of the power of eminent domain may also be used for public purpose projects involving air transportation. Revenue-producing utility projects shall be limited to projects for the transportation, delivery, treatment, or furnishing of water for domestic purposes or for power, including, but not limited to, the construction of lakes, pipelines, and water treatment plants or for projects for rail transportation. Any public trust formed pursuant to this section which has a county as its beneficiary shall have the power to acquire, by use of eminent domain, any lands located either inside the county, or contiguous to the county pursuant to the limitations imposed pursuant to this section.

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

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

SECTION 4. AMENDATORY 63 O.S. 2011, Section 3250.3, is amended to read as follows:

Section 3250.3. A. 1. The Oklahoma Legislature finds that the delivery of health care services to the public including medically indigent persons will be enhanced through the establishment of community hospital public trust authorities and the creation of hospital districts pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act.

2. The purpose of the Oklahoma Community Hospitals Public Trust Authorities Act is to provide maximum utilization and efficient administration in delivering health care services by hospital districts to the public including medically indigent persons, and to provide for supplemental Medicaid programs.

B. 1. A hospital or two or more hospitals ~~located within a county or adjacent counties or located within a county or adjacent~~

~~counties~~ and a municipality may jointly create a public trust for the purposes of:

a. establishing a hospital district,

b. accessing and providing funding for coordination of the delivery of health care to the public, including, but not limited to, programs that contribute to serving the medically indigent,

c. improving access to health care by the public,

d. coordinating the development of new health services in the hospital district,

e. considering various alternatives for integrating the services of the health care delivery system in the hospital district, and

f. providing for and supplementing Medicaid programs.

2. A hospital participating in the creation of a public trust must:

a. expend at least Fifty Thousand Dollars ($50,000.00) annually providing care for medically indigent persons, and

b. have a system of inpatient and/or outpatient health care, trauma care, or emergency care services that is not limited to a specific modality of health care.

3. The boundaries of a community hospital public trust authority should be coextensive with the boundaries of a county or a group of member counties.

4. The county or counties, or the county or counties and municipality, in which a hospital district is established must approve and shall be the beneficiary of the public trust pursuant to the provisions of Sections 176 and 177 of Title 60 of the Oklahoma Statutes.

C. The instrument creating the public trust shall provide at a minimum:

1. The reasons for organizing and constituting a hospital district, including a statement that the community hospital public trust authority will comply with all applicable provisions of Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes and the Oklahoma Community Hospitals Public Trust Authorities Act;

2. A statement that the public trust shall be separate and independent from the affairs of the beneficiary in all matters or activities authorized by the written instrument creating the public trust;

3. The names and corporate headquarters of each hospital located in the proposed hospital district;

4. The general patient loads of each hospital within the proposed hospital district and the anticipated number of medically indigent persons for whom medical services will be provided;

5. A concise description of the geographic boundaries to be embraced within the proposed hospital district;

6. A statement that the proposed hospital district is embracing only those lands within the proposed boundaries specified by paragraph 5 of this subsection which can reasonably and economically be served in the foreseeable future;

7. Assurance that all hospitals located within the hospital district which meet the eligibility criteria can participate in the public trust;

8. For the appointment, succession, powers, duties, terms and manner of removal of trustees;

9. For the appointment of at least five trustees as follows:

a. the chief executive officers of the hospitals participating in the community hospital public trust authority and may include the chief executive officers of hospitals located within the hospital district,

b. (1) one county commissioner or their designee from each beneficiary county which the hospital district embraces, appointed by the commissioners of each such county, and

(2) the chief administrative officer or his or her designee from a municipality in which the hospital district is situated, if such

municipality is the beneficiary of the public trust, and

c. one member appointed by the Governor who has no direct affiliation with any hospital participating in the community hospital public trust authority; provided, that if pursuant to the provisions of this paragraph the Board will have less than five members, the Governor shall appoint additional members; and

10. The time and place of the regular meetings and the manner in which special meetings may be called. A community hospital public trust authority shall keep a complete record of all its proceedings.

D. As a condition precedent, each community hospital public trust authority must receive approval from the Attorney General that the public trust is in the proper form.

E. A certified copy of the public trust agreement must be filed with the Secretary of State and with the court clerk of each beneficiary county and municipality.

F. Each public trust established pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act shall not be amended without a two-thirds (2/3) vote of approval of the trustees of such trust.

SECTION 5. This act shall become effective November 1, 2016.

Passed the Senate the 10th day of March, 2016.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2016.

_____
Presiding Officer of the House
of Representatives