

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1607

By: Bingman of the Senate

4 and

5 Hickman of the House

6
7
8 AS INTRODUCED

9 An Act relating to hospital trusts; amending 63 O.S.
10 2011, Sections 3224 and 3290, which relate to the
University Hospitals Trust and the Oklahoma State
11 University Medical Trust; deleting obsolete language;
providing that certain entities not subject to
12 Oklahoma Open Meeting Act and Oklahoma Open Records
Act; requiring certain information and materials to
be kept confidential; providing exceptions;
13 authorizing certain executive sessions; and declaring
an emergency.
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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 63 O.S. 2011, Section 3224, is
18 amended to read as follows:

19 Section 3224. A. The State of Oklahoma expressly approves the
20 creation of a public trust to be denominated the "University
21 Hospitals Trust", of which the State of Oklahoma shall be the
22 beneficiary, provided such approval shall be contingent upon the
23 following conditions being satisfied:

- 24 1. Finalizing of the Declaration of Trust;

1 2. Adoption of the Declaration of Trust by an official action
2 of the trustees of the Trust;

3 3. Submission of the Trust for acceptance of the beneficial
4 interest and approval as required by Section 177 of Title 60 of the
5 Oklahoma Statutes; and

6 4. The approved Declaration of Trust shall:

7 a. clearly state that the principal purpose of the
8 University Hospitals Trust is to effectuate the
9 purposes of the University Hospitals Authority as
10 established in the University Hospitals Authority Act,

11 b. except as otherwise provided by law, provide that the
12 fee simple title to real property held by the
13 University Hospitals Authority shall not be
14 transferred, conveyed, or assigned to the University
15 Hospitals Trust without the express consent of the
16 Legislature as the governing entity of the beneficiary
17 pursuant to Section 176 of Title 60 of the Oklahoma
18 Statutes,

19 c. provide that any indebtedness incurred by the
20 University Hospitals Trust or the trustees of the
21 Trust shall not be secured with or create a lien upon
22 real property to which title is held by the University
23 Hospitals Authority and shall not involve the bonding
24 capacity of the University Hospitals Authority,

- 1 d. provide that the trust estate of the University
2 Hospitals Trust shall not include fee simple title to
3 real property owned by the University Hospitals
4 Authority,
- 5 e. clearly state that the creation of the University
6 Hospitals Trust shall not in any way reduce, limit or
7 interfere with the power granted to the University
8 Hospitals Authority in the University Hospitals
9 Authority Act,
- 10 f. provide that any lease or contractual agreement
11 involving use of the real property to which title is
12 held by the University Hospitals Authority and any
13 improvements thereto shall contain a provision and
14 covenants requiring the proper maintenance and upkeep
15 of the real property and improvements,
- 16 g. provide that the trustees of the University Hospitals
17 Trust shall be the acting members of the University
18 Hospitals Authority as provided in the University
19 Hospitals Authority Act, and
- 20 h. provide that the trustees of the University Hospitals
21 Trust shall have the duty to submit an annual report
22 to the Governor, the President Pro Tempore of the
23 Senate, and the Speaker of the House of
24 Representatives ~~and members of the Task Force created~~

1 ~~by subsection D of this section.~~ The report shall be
2 submitted by January 1 of each year and shall include
3 an account of all operations, actions of the Trust,
4 account of all revenue received and disbursed by the
5 Trust for the previous fiscal year. The report shall
6 also provide a complete accounting of how the Trust
7 meets its primary function of effectuating the
8 purposes of the University Hospitals Authority, as
9 established in the University Hospitals Authority Act.
10 ~~The Trust shall meet with the Task Force created in~~
11 ~~subsection D of this section to review the contents of~~
12 ~~the annual report.~~

13 B. The University Hospitals Trust shall require any agreements
14 which it enters into with any entity pursuant to Section 3226 of
15 this title for the operations of facilities leased by the University
16 Hospitals Authority to the Trust to include, but not be limited to:

17 1. The inclusion of four of the five members of the Trust as
18 four of the five members representing the State of Oklahoma as state
19 appointees to the governing committee created pursuant to a proposed
20 agreement;

21 2. Binding arbitration shall not be involved in such agreements
22 for resolving issues under consideration by the governing committee;
23 and
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1 3. Major decisions shall be resolved by the governing
2 committee, and approval of any major decision by the governing
3 committee must include the approval of a majority of the state
4 appointees and the approval of a majority of the members of the
5 private entity appointees to the governing committee. Major
6 decisions shall include:

- 7 a. approval of the annual operating and capital budgets,
- 8 b. sale or disposition of assets that individually have a
9 fair market value over Two Hundred Fifty Thousand
10 Dollars (\$250,000.00),
- 11 c. the termination or transfer or material addition or
12 material diminution of medical services at the
13 Oklahoma Medical Center related to and part of a
14 teaching program of the University of Oklahoma Health
15 Sciences Center, and
- 16 d. other major decisions as may be agreed upon by the
17 Trust and the private entity.

18 C. To the extent it is determined by legislative enactment that
19 the Trust has expended funds in contravention of its mission as set
20 forth in this section, the Trust shall remit, upon thirty (30) days'
21 written notice from the University Hospitals Authority, such sum or
22 sums to the University Hospitals Authority.

23 D. In the event the Trust enters into a joint venture or
24 acquires an interest in a not-for-profit entity to effectuate the

1 administration of the mission of the Trust, that entity shall not be
2 subject to the Oklahoma Open Meeting Act and the Oklahoma Open
3 Records Act. Any information submitted to or compiled by the Trust
4 with respect to marketing plans, financial statements, trade
5 secrets, research concepts, methods or products or any other
6 proprietary information submitted to or compiled by the Trust,
7 persons, firms, associations, partnerships, agencies, corporations,
8 institutions of higher education, nonprofit research institutions or
9 other entities shall be confidential, except to the extent that the
10 person or entity which provided such information or which is the
11 subject of such information consents to disclosure. Executive
12 sessions may be held to discuss such materials if deemed necessary
13 by the Trust. The provisions of this subsection shall not apply to
14 budgetary information related to appropriations or the
15 appropriations process.

16 SECTION 2. AMENDATORY 63 O.S. 2011, Section 3290, is
17 amended to read as follows:

18 Section 3290. A. The State of Oklahoma expressly approves the
19 creation of a public trust to be named the "Oklahoma State
20 University Medical Trust", of which the State of Oklahoma shall be
21 the beneficiary, provided such approval shall be contingent upon
22 satisfaction of the following conditions:

23 1. Finalizing of the declaration of trust;

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1 2. Adoption of the declaration of trust by an official action
2 of the trustees of the Trust;

3 3. Submission of the Trust for acceptance of the beneficial
4 interest and approval as required by Section 177 of Title 60 of the
5 Oklahoma Statutes; and

6 4. The approved declaration of trust shall:

7 a. clearly state that the principal purpose of the
8 Oklahoma State University Medical Trust is to
9 effectuate the purposes of the Oklahoma State
10 University Medical Authority as established in the
11 Oklahoma State University Medical Authority Act,

12 b. except as otherwise provided by law, provide that the
13 title to real property held by the Oklahoma State
14 University Medical Authority shall not be transferred,
15 conveyed, or assigned to the Oklahoma State University
16 Medical Trust without the express consent of the
17 Legislature as the governing entity of the beneficiary
18 pursuant to Section 176 of Title 60 of the Oklahoma
19 Statutes,

20 c. provide that any indebtedness incurred by the Oklahoma
21 State University Medical Trust or the trustees of the
22 Trust shall not be secured with or create a lien upon
23 real property to which title is held by the Oklahoma
24 State University Medical Authority and shall not

1 involve the bonding capacity of the Oklahoma State
2 University Medical Authority,

3 d. provide that the trust estate of the Oklahoma State
4 University Medical Trust shall not include fee simple
5 title to real property owned by the Oklahoma State
6 University Medical Authority,

7 e. clearly state that the creation of the Oklahoma State
8 University Medical Trust shall not in any way reduce,
9 limit or interfere with the power granted to the
10 Oklahoma State University Medical Authority in the
11 Oklahoma State University Medical Authority Act,

12 f. provide that any lease or contractual agreement
13 involving use of the real property to which title is
14 held by the Oklahoma State University Medical
15 Authority and any improvements thereto shall contain a
16 provision and covenants requiring the proper
17 maintenance and upkeep of the real property and
18 improvements,

19 g. provide that the trustees of the Oklahoma State
20 University Medical Trust shall be the acting members
21 of the Oklahoma State University Medical Authority as
22 provided in the Oklahoma State University Medical
23 Authority Act, and
24

1 h. provide that the trustees of the Oklahoma State
2 University Medical Trust shall have the duty to submit
3 an annual report to the Governor, the President Pro
4 Tempore of the Senate and the Speaker of the House of
5 Representatives. The report shall be submitted by
6 January 1 of each year and shall include an account of
7 all operations, actions of the Trust, account of all
8 revenue received and disbursed by the Trust for the
9 previous fiscal year. The report shall also provide a
10 complete accounting of how the Trust meets its primary
11 function of effectuating the purposes of the Oklahoma
12 State University Medical Authority, as established in
13 the Oklahoma State University Medical Authority Act.

14 B. The Oklahoma State University Medical Trust shall require
15 any agreements which it enters into with any entity pursuant to
16 Section 22 of this act for the operations of facilities leased by
17 the Oklahoma State University Medical Authority to the Trust to
18 include, but not be limited to:

19 1. The inclusion of all the members of the Trust, except the
20 Chief Executive Officer of the Oklahoma Health Care Authority, as
21 five of the six members representing the State of Oklahoma in a
22 governing committee, and the sixth member of the governing committee
23 representing the State of Oklahoma to be designated by the President
24 of Oklahoma State University;

1 2. Binding arbitration shall not be required by such agreements
2 for resolving issues under consideration by the governing committee;
3 and

4 3. Major decisions shall be resolved by the governing
5 committee, and approval of any major decision by the governing
6 committee must include the approval of a majority of the state
7 appointees and the approval of a majority of the private entity
8 appointees to the governing committee. Major decisions shall
9 include:

- 10 a. approval of the operating and capital budgets,
- 11 b. sale or disposition of assets over Two Hundred Fifty
12 Thousand Dollars (\$250,000.00),
- 13 c. the termination or transfer or material addition or
14 material diminution of medical services at the
15 Oklahoma State University Medical Center related to
16 and part of a teaching program of the Oklahoma State
17 University Center for Health Sciences, and
- 18 d. other major decisions as may be agreed upon by the
19 Trust and the private entity.

20 C. To the extent it is determined by legislative enactment that
21 the Trust has expended funds in contravention of its mission as set
22 forth in this section, the Trust shall remit, upon thirty (30) days'
23 written notice from the Oklahoma State University Medical Authority,
24 such sum or sums to the Oklahoma State University Medical Authority.

1 D. In the event the Trust enters into a joint venture or
2 acquires an interest in a not-for-profit entity to effectuate the
3 administration of the mission of the Trust, that entity shall not be
4 subject to the Oklahoma Open Meeting Act and the Oklahoma Open
5 Records Act. Any information submitted to or compiled by the Trust
6 with respect to marketing plans, financial statements, trade
7 secrets, research concepts, methods or products or any other
8 proprietary information submitted to or compiled by the Trust,
9 persons, firms, associations, partnerships, agencies, corporations,
10 institutions of higher education, nonprofit research institutions or
11 other entities shall be confidential, except to the extent that the
12 person or entity which provided such information or which is the
13 subject of such information consents to disclosure. Executive
14 sessions may be held to discuss such materials if deemed necessary
15 by the Trust. The provisions of this subsection shall not apply to
16 budgetary information related to appropriations or the
17 appropriations process.

18 SECTION 3. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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