

An Act

ENROLLED SENATE
BILL NO. 1607

By: Bingman of the Senate

and

Hickman of the House

An Act relating to hospital trusts; amending 63 O.S. 2011, Sections 3224 and 3290, which relate to the University Hospitals Trust and the Oklahoma State University Medical Trust; deleting obsolete language; providing that certain entities not subject to Oklahoma Open Meeting Act and Oklahoma Open Records Act; requiring certain information and materials to be kept confidential; providing exceptions; authorizing certain executive sessions; and declaring an emergency.

SUBJECT: Hospital trusts

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

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

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

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

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

4. The approved Declaration of Trust shall:

- a. clearly state that the principal purpose of the University Hospitals Trust is to effectuate the purposes of the University Hospitals Authority as established in the University Hospitals Authority Act,
- b. except as otherwise provided by law, provide that the fee simple title to real property held by the University Hospitals Authority shall not be transferred, conveyed, or assigned to the University Hospitals Trust without the express consent of the Legislature as the governing entity of the beneficiary pursuant to Section 176 of Title 60 of the Oklahoma Statutes,
- c. provide that any indebtedness incurred by the University Hospitals Trust or the trustees of the Trust shall not be secured with or create a lien upon real property to which title is held by the University Hospitals Authority and shall not involve the bonding capacity of the University Hospitals Authority,
- d. provide that the trust estate of the University Hospitals Trust shall not include fee simple title to real property owned by the University Hospitals Authority,
- e. clearly state that the creation of the University Hospitals Trust shall not in any way reduce, limit or interfere with the power granted to the University Hospitals Authority in the University Hospitals Authority Act,
- f. provide that any lease or contractual agreement involving use of the real property to which title is held by the University Hospitals Authority and any improvements thereto shall contain a provision and

covenants requiring the proper maintenance and upkeep of the real property and improvements,

- g. provide that the trustees of the University Hospitals Trust shall be the acting members of the University Hospitals Authority as provided in the University Hospitals Authority Act, and
- h. provide that the trustees of the University Hospitals Trust shall have the duty to submit an annual report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives ~~and members of the Task Force created by subsection D of this section.~~ The report shall be submitted by January 1 of each year and shall include an account of all operations, actions of the Trust, account of all revenue received and disbursed by the Trust for the previous fiscal year. The report shall also provide a complete accounting of how the Trust meets its primary function of effectuating the purposes of the University Hospitals Authority, as established in the University Hospitals Authority Act. ~~The Trust shall meet with the Task Force created in subsection D of this section to review the contents of the annual report.~~

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

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

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

3. Major decisions shall be resolved by the governing committee, and approval of any major decision by the governing

committee must include the approval of a majority of the state appointees and the approval of a majority of the members of the private entity appointees to the governing committee. Major decisions shall include:

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

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

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

budgetary information related to appropriations or the appropriations process.

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

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

1. Finalizing of the declaration of trust;
2. Adoption of the declaration of trust by an official action of the trustees of the Trust;
3. Submission of the Trust for acceptance of the beneficial interest and approval as required by Section 177 of Title 60 of the Oklahoma Statutes; and
4. The approved declaration of trust shall:
 - a. clearly state that the principal purpose of the Oklahoma State University Medical Trust is to effectuate the purposes of the Oklahoma State University Medical Authority as established in the Oklahoma State University Medical Authority Act,
 - b. except as otherwise provided by law, provide that the title to real property held by the Oklahoma State University Medical Authority shall not be transferred, conveyed, or assigned to the Oklahoma State University Medical Trust without the express consent of the Legislature as the governing entity of the beneficiary pursuant to Section 176 of Title 60 of the Oklahoma Statutes,
 - c. provide that any indebtedness incurred by the Oklahoma State University Medical Trust or the trustees of the Trust shall not be secured with or create a lien upon real property to which title is held by the Oklahoma

State University Medical Authority and shall not involve the bonding capacity of the Oklahoma State University Medical Authority,

- d. provide that the trust estate of the Oklahoma State University Medical Trust shall not include fee simple title to real property owned by the Oklahoma State University Medical Authority,
- e. clearly state that the creation of the Oklahoma State University Medical Trust shall not in any way reduce, limit or interfere with the power granted to the Oklahoma State University Medical Authority in the Oklahoma State University Medical Authority Act,
- f. provide that any lease or contractual agreement involving use of the real property to which title is held by the Oklahoma State University Medical Authority and any improvements thereto shall contain a provision and covenants requiring the proper maintenance and upkeep of the real property and improvements,
- g. provide that the trustees of the Oklahoma State University Medical Trust shall be the acting members of the Oklahoma State University Medical Authority as provided in the Oklahoma State University Medical Authority Act, and
- h. provide that the trustees of the Oklahoma State University Medical Trust shall have the duty to submit an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The report shall be submitted by January 1 of each year and shall include an account of all operations, actions of the Trust, account of all revenue received and disbursed by the Trust for the previous fiscal year. The report shall also provide a complete accounting of how the Trust meets its primary function of effectuating the purposes of the Oklahoma State University Medical Authority, as established in the Oklahoma State University Medical Authority Act.

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

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

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

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

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

C. To the extent it is determined by legislative enactment that the Trust has expended funds in contravention of its mission as set forth in this section, the Trust shall remit, upon thirty (30) days'

written notice from the Oklahoma State University Medical Authority, such sum or sums to the Oklahoma State University Medical Authority.

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

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

Passed the Senate the 25th day of May, 2016.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2016.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____