HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2160

By: Roe

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma State University Medical Authority; amending 63 O.S. 2021, Section 3275, which relates to members; modifying qualifications; adding members; removing obsolete language; authorizing virtual meetings under certain conditions; amending 63 O.S. 2021, Section 3276, which relates to powers and duties of the Authority; modifying and adding powers and duties; removing certain prohibition; amending 63 O.S. 2021, Section 3283, which relates to revenue bonds; specifying allowed payment sources for bonds; amending 63 O.S. 2021, Section 3290, which relates to the Oklahoma State University Medical Trust; increasing certain asset limit for purpose of certain determination; authorizing virtual meetings under certain conditions; repealing 63 O.S. 2021, Sections 3287 and 3291, which relate to the Oklahoma State University Medical Authority; exempting the Authority from the Public Competitive Bidding Act of 1974; defining term; repealing 63 O.S. 2021, Sections 3287 and 3291; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 3275, is amended to read as follows:
Section 3275.  A.  There is hereby created the Oklahoma State University Medical Authority, an agency of the State of Oklahoma, a body corporate and politic, with powers of government and with the authority to exercise the rights, privileges and functions as specified in the Oklahoma State University Medical Authority Act.  
The Oklahoma State University Medical Authority is covered by the Governmental Tort Claims Act.

B.  The Authority shall consist of seven (7) eight (8) members as follows:

1. One member shall be appointed by the Governor, with the advice and consent of the Senate;

2. One member shall be appointed by the President Pro Tempore of the Oklahoma State Senate;

3. One member shall be appointed by the Speaker of the Oklahoma House of Representatives;

4. One member shall be the Chief Executive Officer of the Oklahoma Health Care Authority, or a designee;

5. One member shall be the President of the Oklahoma State University Center for Health Sciences;

6. One member shall be appointed by the President of Oklahoma State University who shall be the Chief Executive Officer of any entity, other than the Oklahoma State University Medical Trust, with whom the Oklahoma State University College of Osteopathic Medicine has entered into an Academic Affiliation.
Agreement to serve as the primary site of practice and teaching hospital for medical residency programs, or a designee; and

7. One member shall be a member of the Board of Regents for the Oklahoma Agricultural and Mechanical Colleges, or their designee, as selected by the Chair of the Board of Regents; and

8. One member shall be the Chief Executive Officer of the Oklahoma State University Medical Authority who shall be an ex officio, nonvoting member.

C. All appointed members shall be appointed by June 1, 2006. Of the members of the Authority initially appointed, the member appointed by the President Pro Tempore of the Senate shall serve a term of three (3) years; the member appointed by the Speaker of the House of Representatives shall serve a term of two (2) years; and the member appointed by the Governor shall serve a term of one (1) year. Successors Members shall be appointed for terms of three (3) years.

D. Each member of the Authority, prior to appointment, shall be a resident of the state and a qualified elector.

E. Members shall be removable only for cause by the appointing authority. Any vacancy occurring on the Authority shall be filled by the original appointing authority.

F. The members of the Authority shall serve without compensation but may be reimbursed for all actual and necessary travel expenses incurred in performance of their duties in
accordance with the provisions of the State Travel Reimbursement Act.

G. All members of the Authority and administrative personnel of the Authority shall be subject to the provisions of the Oklahoma Ethics Commission Rules, Chapter 62 Appendix of Title 74 of the Oklahoma Statutes.

H. A quorum of the Authority shall be four (4) voting members. The Authority shall elect a chair and vice chair from among its members. The chair must be an appointed member of the Authority.

I. The Authority shall be exempt from the Oklahoma Central Purchasing Act but shall be subject to the purchasing policies of Oklahoma State University Center for Health Sciences and shall be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, except as otherwise provided by this act. Any information submitted to or compiled by the Authority except for budgetary information related to appropriations or the appropriations process with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of the Authority, 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 the information or which is the subject of the information consents to disclosure. Executive
sessions may be held to discuss such materials if deemed necessary by the Authority.

J. The Authority may hold meetings by videoconference where each member of the public body is visible and audible to each other and the public through a video monitor at the designated meeting site and online website, subject to the following:

1. Each public meeting held by videoconference shall be recorded either by written, electronic, or other means;

2. The meeting notice and agenda prepared in advance of the meeting, as required by law, shall indicate at least one videoconferencing location and shall state the location, address, and telephone number of each available videoconference site and provide the online website address to view the meeting; and

3. The meeting agenda prepared in advance of the meeting, as required by law, shall indicate which members of the Authority will appear by video conference and which members will be present at the designated meeting site.

SECTION 2. AMENDATORY 63 O.S. 2021, Section 3276, is amended to read as follows:

Section 3276. A. On and after July 1, 2006, the Authority shall have the power and duty to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;

2. Adopt an official seal;
3. Maintain an office at a location to be determined by the Authority;

4. Sue and be sued, subject to the provisions of The Governmental Tort Claims Act;

5. Enter into cooperative agreements with the Board of Regents for the Oklahoma Agricultural and Mechanical Colleges for educational programs, professional staffing, research and other medical activities;

6. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers pursuant to the Oklahoma State University Medical Authority Act;

7. Purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to maintain and operate hospitals or clinics, or to discharge its duties and responsibilities or to make any of its powers effective;

8. Acquire by purchase, lease, gift, or by any other manner, and to maintain, use and operate or to contract for the maintenance, use and operation of or lease of any and all property of any kind, real, personal, or mixed or any interest therein unless otherwise provided by the Oklahoma State University Medical Authority Act;

9. Appoint such officers, agents and employees, including but not limited to attorneys, as it deems necessary and to prescribe their duties and to fix their compensation;
10. Accept grants from the United States of America, or from any corporation or agency created or designed by the United States of America, and, in connection with any grant, to enter into such agreements as the United States of America or such corporation or agency may require;

11. Make and issue bonds and to pledge revenues of the Authority subject to the Oklahoma Bond Oversight and Reform Act. Nothing in the Oklahoma State University Medical Authority Act shall authorize the issuance of any bonds of the Authority payable other than from revenues of the Authority. Funds appropriated to the Authority shall not be used for issuance of bonds. Authority revenue bonds issued under the provisions of this act shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any political subdivision, but such bonds shall be payable solely from the funds herein provided. Such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or the interest on such bonds. The maximum amount of outstanding bonds at any time shall not exceed
Fifty Million Dollars ($50,000,000.00) unless a greater amount is expressly approved by the Legislature by a concurrent resolution adopted prior to commencing any action in anticipation of issuance of revenue bonds of the Oklahoma State University Medical Authority for the greater amount;

12. Provide for complete financial audits on all accounts of the Oklahoma State University Medical Authority and to authorize periodic audits by an independent external auditing agency. Such audits shall be performed annually in a format approved by the State Auditor and Inspector, and all such audits shall be submitted to the State Auditor and Inspector for review. Such audits shall be made in accordance with generally accepted auditing standards and government auditing standards. Financial statements shall be prepared in accordance with generally accepted accounting principles. In addition to said audits, whenever the State Auditor and Inspector deems it appropriate, and at least once each five (5) years, or upon receipt of a request to do so from the Governor, the Attorney General, the President Pro Tempore of the Oklahoma Senate, the Speaker of the Oklahoma House of Representatives or the Authority, the State Auditor and Inspector shall conduct a special audit of the Authority;

13. Engage in long-term planning for the operation and management of the Authority;
14. Establish petty cash funds and provide for appropriate accounting procedures and controls;

15. Contract with national manufacturers and distributors of drugs and medical supplies when appropriate to carry out the purposes of this act;

16. Provide funding to other entities for purposes related to public health, teaching, research, and the purposes of the Oklahoma State University Medical Authority Act when provided funding for such purposes by the Legislature;

17. Do all other things necessary and proper to implement the provisions of the Oklahoma State University Medical Authority Act;

17. 18. Waive, by such means as the Authority deems appropriate, the exemption from federal income taxation of interest on the Authority's bonds provided by the Internal Revenue Code of 1986, as amended, or any other federal statute providing a similar exemption;

17. 19. Arrange for guaranties or insurance of its bonds by the federal government or by any private insurer, and to pay any premiums therefor; and

19. 20. Make a declaration of necessity as provided in Section 3273 of this title. The Authority may, in its exclusive judgment, make a declaration of necessity when such a declaration is deemed necessary to effectuate the purposes of the Oklahoma State University Medical Authority Act.
B. The Oklahoma State University Medical Authority shall be subject to the Oklahoma Budget Law of 1947.

C. The Authority shall prepare monthly a "budget versus actual" report which shows by budget activity the monthly and year-to-date revenues and expenditures compared to budgeted revenues and expenditures. Such report shall be submitted to the Office of Management and Enterprise Services and to the Directors of the House of Representatives Fiscal Division and the Senate Fiscal Division.

D. The Authority shall be subject to the professional risk management program provided for in Section 85.58A of Title 74 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 63 O.S. 2021, Section 3283, is amended to read as follows:

Section 3283. Revenue bonds of the Oklahoma State University Medical Authority issued pursuant to the provisions of the Oklahoma State University Medical Authority shall not constitute a debt of the state or of any political subdivision thereof, or a pledge of the full faith and credit of the state, or of any political subdivision thereof, but such bonds shall be payable solely from the funds provided therefor from the Authority's revenues or appropriated by the Legislature. The forms of the bonds so issued shall contain on the face thereof a statement to the effect that neither the state nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues of the
Authority pledged to the payment of such bonds and that neither the
faith and credit nor the taxing power of the state or any political
subdivision thereof is pledged, or may hereafter be pledged, to the
payment of the principal of or interest on such bonds. The bonds so
issued shall be exempt from taxation by the State of Oklahoma and
any political subdivision thereof, including the income therefrom,
and any gain from the sale thereof.

SECTION 4. AMENDATORY 63 O.S. 2021, 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 3292 of this act title 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 Five Hundred Fifty Thousand Dollars ($250,000.00) ($500,000.00),
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.

E. The Trust may hold meetings by videoconference where each
member of the public body is visible and audible to each other and
the public through a video monitor at the designated meeting site
and online website, subject to the following:

1. Each public meeting held by videoconference shall be
recorded either by written, electronic, or other means;

2. The meeting notice and agenda prepared in advance of the
meeting, as required by law, shall indicate at least one
videoconferencing location and shall state the location, address,
and telephone number of each available videoconference site and
provide the online website address to view the meeting; and

3. The meeting agenda prepared in advance of the meeting, as
required by law, shall indicate which members of the Authority will
appear by video conference and which will be present at the
designated meeting site.
SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 103.9 of Title 61, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State University Medical Authority and the Oklahoma State University Medical Trust shall be, to the extent not already authorized by law, exempt from the Public Competitive Bidding Act of 1974 for the purposes of the constructing of clinical facilities in furtherance of the purposes authorized by the Oklahoma State University Medical Authority Act.

B. As used in this section, "clinical facilities" means any facility where the majority of the activity occurring is the delivery of direct patient care services either in person or via telehealth technology.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3294 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State University Medical Authority and the Oklahoma State University Medical Trust shall be, to the extent not already authorized by law, exempt from the Public Competitive Bidding Act of 1974 for the purposes of the constructing of clinical facilities in furtherance of the purposes authorized by the Oklahoma State University Medical Authority Act.

B. As used in this section, "clinical facilities" means any facility where the majority of the activity occurring is the
delivery of direct patient care services either in person or via telehealth technology.

SECTION 7. REPEALER 63 O.S. 2021, Sections 3287 and 3291, are hereby repealed.

SECTION 8. This act shall become effective November 1, 2023.

COMMITTEE REPORT BY: COMMITTEE ON HIGHER EDUCATION AND CAREER TECH, dated 02/28/2023 - DO PASS, As Amended.