

ENROLLED SENATE
BILL NO. 470

By: Wilson of the Senate

and

Piatt and Hyman of the
House

An Act relating to tourism and recreation; amending Section 32, Chapter 363, O.S.L. 2005 (74 O.S. Supp. 2006, Section 2231), which relates to confidential lists and information; authorizing the Department to make certain business and financial information confidential; authorizing the Commission to transfer certain real estate to the Oklahoma Historical Society; requiring the transfer of certain interests; exempting sale of property from certain statutory requirements; providing for transfer by certain instrument; amending Sections 2 and 4, Chapter 67, O.S.L. 2006 (74 O.S. Supp. 2006, Sections 2276.1 and 2276.2), which relate to the Oklahoma State Park Trust Fund; deleting reference to additional revenues; including royalty payments as part of the Trust Fund principal; updating statutory references; adding the State Treasurer as a custodian for the Trust Fund; directing the State Treasurer to use certain investment policy and guidelines in certain circumstances; enacting the Lake Murray Area Infrastructure Support Act; making legislative findings; defining terms; imposing duties upon the Oklahoma Tourism and Recreation Department; imposing duties upon the Oklahoma Tax Commission; requiring identification of certain vendors conducting transactions within Lake Murray Designated Area; authorizing forms and adoption of administrative rules; prescribing effect of act upon sales tax levies by political subdivisions; making

implementation of act contingent upon certain action by the Oklahoma Tourism and Recreation Commission; requiring remittance of certain incremental sales tax revenue to Oklahoma Recreation and Development Revolving Fund; authorizing use of incremental sales tax revenues by Oklahoma Tourism and Recreation Department; repealing Section 3, Chapter 67, O.S.L. 2006 (74 O.S. Supp. 2006, Section 2250.1), which relates to limitation on use of royalty payment revenues associated with oil and gas mineral operations at state parks; repealing 74 O.S. 2001, Section 5026, as amended by Section 6, Chapter 197, O.S.L. 2002 (74 O.S. Supp. 2006, Section 5026), which relates to the Office of the Oklahoma Film and Music Commission; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 32, Chapter 363, O.S.L. 2005 (74 O.S. Supp. 2006, Section 2231), is amended to read as follows:

Section 2231. The Department may keep confidential ~~prospect~~:

1. Prospect lists, booking lists, subscriber lists, permission marketing lists, or personal information provided to the Department; and

2. Business plans, feasibility studies, financing proposals, marketing plans, financial statements, or trade secrets submitted by a person or entity seeking economic advice from the Department and any information compiled by the Department in response to the submissions.

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. The Commission may transfer to the Oklahoma Historical Society any and all real and personal property owned by the State of Oklahoma or the Department that is under the jurisdiction of the Commission, located within Cherokee County, State of Oklahoma and known as the Tsa La Gi property, which contains forty-four (44) acres, more or less.

B. The transfer of real estate and personal property authorized pursuant to this section shall be subject to all existing easements, leases, subleases, and reservations of record.

C. The Commission and Department shall not be subject to the provisions of Section 129.4 of Title 74 of the Oklahoma Statutes for the transfer of real and personal property authorized by this section. The transfer of real and personal property authorized by this section shall not be subject to the provisions of Sections 456.7 and 2224 of Title 74 of the Oklahoma Statutes.

D. The transfer of the real and personal property to the Oklahoma Historical Society by the Commission as authorized pursuant to this section shall be by quit claim deed or other instrument as may be appropriate.

SECTION 3. AMENDATORY Section 2, Chapter 67, O.S.L. 2006 (74 O.S. Supp. 2006, Section 2276.1), is amended to read as follows:

Section 2276.1 A. There is hereby created a trust fund to be known as the "Oklahoma State Park Trust Fund". The Oklahoma Tourism and Recreation Commission shall be the trustees of said Trust Fund.

~~B. In addition to the revenues received from royalty payments as provided for in Section 3 of this act, the~~ The Commission shall utilize ~~not more than~~ five percent (5%) of the principal of the Trust Fund annually to:

1. Protect and conserve state park lands, but shall not include routine maintenance expenses of the state parks;

2. Preserve historic properties under the jurisdiction of the Commission;

3. Provide for one-time capital upgrades and improvements of state park resources; and

4. Pay fees and expenses associated with the services of a custodian of the Trust Fund.

C. The Commission shall give priority for funding to the state park from which the revenues were initially derived.

D. The Trust Fund principal shall consist of monies from any and all mineral lease payments, seismograph fees, royalty payments, or other payments associated with oil and gas mineral operations at state parks that are managed by the Oklahoma Tourism and Recreation Department, any funds appropriated or transferred to the Trust Fund by the Legislature, and any monies or assets contributed to the Trust Fund from any other source, public or private.

E. Notwithstanding other provisions of law, income and investment return on Trust Fund principal shall accrue to the Trust Fund for use as provided by authorization of the trustees for the purposes listed in subsection B of this section. Except as provided for in subsection B of this section, no income or investment return or principal shall be used for administrative expenses of the Oklahoma Tourism and Recreation Department or expenses incurred by the Commission in the administration of the Trust Fund.

SECTION 4. AMENDATORY Section 4, Chapter 67, O.S.L. 2006 (74 O.S. Supp. 2006, Section 2276.2), is amended to read as follows:

Section 2276.2 A. The Oklahoma Tourism and Recreation Commission shall discharge their duties as trustees of the Oklahoma State Park Trust Fund created in Section ~~2~~ 2276.1 of this ~~act~~ title, hereafter referred to as the "Trust Fund":

1. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

2. By diversifying the investments of the Trust Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

3. In accordance with the laws, documents and instruments governing the Trust Fund.

B. The Commission may procure insurance indemnifying the members of the Commission from personal loss or accountability from liability resulting from the action or inaction of a member as a trustee.

C. The Commission ~~shall~~ may utilize the written investment policy developed by the State Treasurer for the investment of public funds for the investment and management of the Trust Fund. ~~All investments~~ Investments of the Trust Fund ~~shall~~ may be consistent with the guidelines set forth in Section 89.2 of Title 62 of the Oklahoma Statutes which establishes the investment requirements for public funds by the State Treasurer.

D. Funds and revenues for investment by the Commission shall be placed with a custodian selected by the Commission. Payment of ~~the~~ any fees for the services of a custodian may be paid from the income and investment return on the Trust Fund. The custodian ~~shall~~ may be the State Treasurer or a bank or trust company offering pension fund master trustee and master custodial services. ~~The~~ If other than the State Treasurer is utilized, the custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Commission. In compliance with the investment policy guidelines of the Commission, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Trust Fund are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the Commission as to the investment of the monies of the Trust Fund in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Commission for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles. If the State Treasurer is utilized as the custodian and has not received direction from the Commission as to the investment of the monies of the Trust Fund in specific investment vehicles, the State Treasurer shall invest the monies in accordance with the investment policy developed by the State Treasurer for investment of public funds and in a manner consistent with the guidelines for the

investment of public funds set forth in Section 89.2 of Title 62 of the Oklahoma Statutes.

E. By November 1, 2006, and prior to August 1 of each year thereafter, the Commission shall develop a written investment plan for the Trust Fund.

F. The Commission shall compile quarterly financial reports of all the funds and accounts of the Trust Fund on a fiscal year basis. The reports shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall be distributed to the Director of the Legislative Service Bureau.

G. After July 1 and before October 1 of each year, the Commission shall publish an annual report presented in simple and easily understood language. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Director of the Legislative Service Bureau. The annual report shall cover the operation of the Trust Fund during the past fiscal year, including income, disbursements, and the financial condition of the Trust Fund at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection F of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over-funded status, contributions and any other information deemed relevant by the Commission.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4401 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 5 through 10 of this act shall be known and may be cited as the "Lake Murray Area Infrastructure Support Act".

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4402 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that sales taxable transactions conducted within the area designated by Section 7 of this act have a significant economic impact. In order to assist the Oklahoma Tourism and Recreation Department with the maintenance and improvement of critical infrastructure for the Lake Murray area, the Legislature finds that it is in furtherance of an essential governmental function to provide a method by which the State of Oklahoma may utilize a portion of certain incremental state sales tax revenues derived from taxable transactions occurring within the area designated by Section 7 of this act as the "Lake Murray Designated Area" to ensure the proper maintenance and allow for the continued development of critical infrastructure within the Lake Murray area.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4403 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Base Year" or "Lake Murray Designated Area Base Year" means the amount of state sales tax revenue remitted by vendors located within the Lake Murray Designated Area during the fiscal year ending June 30, 2007, or the amount of state sales tax revenue remitted by vendors as a result of sales taxable transactions occurring within the Lake Murray Designated Area during the fiscal year ending June 30, 2007, or the sum of both such amounts;

2. "Incremental sales tax revenues" means the amount of sales tax revenue in excess of the amount of sales tax revenue collected within the Lake Murray Designated Area during the Base Year for purposes of the computation required by subsection A of Section 10 of this act;

3. "Lake Murray Designated Area" means the area of land bordered on the north by State Highway 70, on the east by the eastern side of Townships 5 and 6 South, Range 2 East, on the south by the southern side of Township 6 South, Range 2 East and on the west by Interstate 35;

4. "State sales tax revenue" means a portion of the proceeds from the state sales tax levy imposed pursuant to Section 1354 of

Title 68 of the Oklahoma Statutes upon taxable transactions occurring within the Lake Murray Designated Area; and

5. "Vendors" means those persons or business entities making taxable sales of tangible personal property or services within the Lake Murray Designated Area or which are required to remit sales tax based upon transactions occurring within the Lake Murray Designated Area and unless the context otherwise requires shall have the same meaning as defined by Section 1352 of Title 68 of the Oklahoma Statutes.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4404 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Department of Tourism and Recreation shall notify the Oklahoma Tax Commission on such form as the Tax Commission may prescribe of the precise boundary of the Lake Murray Designated Area.

B. The Oklahoma Tax Commission shall determine the amount of state sales tax revenue collected within the Lake Murray Designated Area during the Base Year in order to allow the computation of incremental sales tax revenues pursuant to subsection A of Section 10 of this act.

C. The Tax Commission shall identify all vendors upon which the duty to collect sales tax is imposed pursuant to the Oklahoma Sales Tax Code located or doing business within the Lake Murray Designated Area. The Tax Commission shall provide any required instructions to affected vendors relevant to any duties that may be imposed upon the vendors with respect to the collection and remittance of sales tax derived from transactions occurring within or attributable to transactions occurring within the Lake Murray Designated Area.

D. The Oklahoma Tax Commission may prescribe special forms or prescribe by rule special sales tax reporting procedures applicable to vendors making taxable sales of tangible personal property or services within the Lake Murray Designated Area in order to implement the provisions of the Lake Murray Area Infrastructure Support Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4405 of Title 68, unless there is created a duplication in numbering, reads as follows:

No proceeds from the levy of any sales tax imposed by a county or a municipality shall be affected by the provisions of the Lake Murray Area Infrastructure Support Act and the proceeds from any such levy shall be collected and remitted as required by the Oklahoma Sales Tax Code. The distribution of the revenues shall be made in accordance with all applicable requirements of law with respect to such sales tax levies. The provisions of the Lake Murray Area Infrastructure Support Act shall not be applicable and shall not have the force or effect of law unless the Oklahoma Tourism and Recreation Commission approves an agreement for the leasing of certain real property, including, but not limited to the existing Lake Murray State Lodge facility to another entity for the purpose of operation and development of lodge facilities within the Lake Murray resort area.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4406 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall remit to the Oklahoma Tourism and Recreation Department Revolving Fund created pursuant to Section 2251 of Title 74 of the Oklahoma Statutes, or to a designated account established within such fund, twenty-five percent (25%) of the incremental sales tax revenues derived from the levy of the state sales tax imposed pursuant to Section 1354 of Title 68 of the Oklahoma Statutes collected from vendors making taxable sales within or attributable to transactions within the Lake Murray Designated Area.

B. The Oklahoma Tourism and Recreation Department shall be able to use the revenues apportioned to the Oklahoma Tourism and Recreation Department Revolving Fund pursuant to subsection A of this section to support the maintenance and development of assets owned by the State of Oklahoma and located within the Lake Murray Designated Area as determined by the Oklahoma Tourism and Recreation Department to be necessary for sustaining the Lake Murray area and related state park assets as a viable tourism destination.

SECTION 11. REPEALER Section 3, Chapter 67, O.S.L. 2006 (74 O.S. Supp. 2006, Section 2250.1), is hereby repealed.

SECTION 12. REPEALER 74 O.S. 2001, Section 5026, as amended by Section 6, Chapter 197, O.S.L. 2002 (74 O.S. Supp. 2006, Section 5026), is hereby repealed.

SECTION 13. This act shall become effective July 1, 2007.

SECTION 14. 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 30th day of April, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2007.

Presiding Officer of the House
of Representatives