

An Act

ENROLLED HOUSE
BILL NO. 3692

By: Wallace of the House

and

Garvin of the Senate

An Act relating to public trusts; amending 60 O.S. 2021, Section 178, which relates to trustees; authorizing compensation and expense reimbursement for certain trustees; defining term; making language gender neutral; updating references; and providing an effective date.

SUBJECT: Public trusts

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

SECTION 1. AMENDATORY 60 O.S. 2021, Section 178, is amended to read as follows:

A. The instrument or will creating such trust may provide for the appointment, succession, powers, duties, term, manner of removal and compensation of the trustee or trustees subject to the provisions of subsections C and E of this section, and in all such respects the terms of said instrument or will shall be controlling. Trustees, of public trusts who are public officers, elected officials shall serve without compensation, but may be reimbursed for actual expenses incurred in the performance of their duties as trustees. Trustees of public trusts operating a hospital who are not elected officials may receive reasonable compensation and reimbursement for actual expenses related to the performance of their duties as trustees. For purposes of this section, reasonable compensation shall not exceed a stipend per meeting equal to the regional average for compensation of members of other governmental or nonprofit boards. If the said instrument or will makes no provisions in regard to any of the foregoing, then the general laws of the state shall control as to such omission or omissions. Every person hereafter becoming a trustee of a public trust first shall

take the oath of office required of an elected public officer and every officer and employee who handles funds of a public trust shall furnish a good and sufficient fidelity bond in an amount and with surety as may be specified and approved by the persons constituting a majority of each of the governing bodies of the beneficiaries of the trust, such bond to be in a surety company authorized to transact surety business in the State of Oklahoma but in no event shall any bond be required of a trustee. The cost of ~~said~~ the bond shall be paid from funds of the trust authority. The oaths of office shall be administered by any person authorized to administer oaths in the State of Oklahoma, and shall be filed with the Secretary of State in trusts wherein the State of Oklahoma is the beneficiary; in the office of the county clerk in a trust wherein any county is beneficiary; and in the office of the clerk of the municipality in a trust wherein any municipality is the beneficiary.

B. Unless otherwise specified in another state law authorizing the creation of a state-beneficiary public trust, any public trust that hereafter names the State of Oklahoma as the beneficiary shall have five (5) trustees appointed by the Governor of the State of Oklahoma with the advice and consent of the Senate. The terms of the trustees shall be as follows: of the trustees first appointed, one member shall be appointed for a term of one (1) year; one member shall be appointed for a term of two (2) years; one member shall be appointed for a term of three (3) years; one member shall be appointed for a term of four (4) years; and one member shall be appointed for a term of five (5) years. At the expiration of the term of each member and of each succeeding member, the Governor shall appoint a successor who shall serve for a term of five (5) years. Whenever a vacancy on such trust shall occur by death, resignation or otherwise, the Governor shall fill the same by appointment and the appointee shall hold office during the unexpired term. Each member shall hold office until his or her successor has been appointed and qualified.

C. Any instrument or will creating a trust which is not within the scope of subsection B of this section shall provide for the appointment of a minimum of three trustees, their succession, powers, duties, term, manner of removal and compensation subject to the provisions of subsection E of this section, and in all such respects the terms of ~~said~~ the instrument or will shall be controlling. If the instrument or will makes no provision in regard to any of the foregoing, then the general laws of the state shall control as to the omissions.

D. Meetings of trustees of all public trusts shall be open to the public to the same extent as is required by law for other public boards and commissions. Such meetings shall also be open to the press and any such equipment deemed necessary by the press to record or report the activities of the meetings. In such trusts wherein the State of Oklahoma is the beneficiary, a written notice of trustees' meetings shall be filed with the office of the Secretary of State at least three (3) days prior to the meeting date. Records of the trust and minutes of the trust meetings of any public trust shall be written and kept in a place, the location of which shall be recorded in the office of the county clerk of each county, wherein the trust instrument shall be recorded. Such records and minutes shall be available for inspection by any person during regular business hours. Every trust created under ~~Sections~~ Section 176 et seq. of this title shall file a monthly report of all expenditures of bond proceeds with the governing body of each beneficiary and with the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate in the case of a public trust having the State of Oklahoma as beneficiary.

E. Trustees of any public trust may be removed from office for cause, including incompetency, neglect of duty, or malfeasance in office, by a district court having jurisdiction. In the case of persons appointed by the Governor, such persons shall be appointed for terms not in excess of five (5) years, and shall be subject to removal for cause. In the event of removal of a trustee under this subsection, a successor trustee shall be appointed as provided in the trust instrument. Provided, however, in the event a trustee is so removed who is also a member of the governing board of a municipal beneficiary, the successor trustee shall be appointed by the judge of the court wherein the removal occurred; ~~said~~ the successor trustee shall serve only until the removed trustee ceases to serve as a member of the governing board of the municipal beneficiary and his or her successor on ~~said~~ the board has qualified.

F. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if the instrument or will creating such public trust shall have been held to be a valid and binding agreement in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture or existing or future obligations of such public trust.

SECTION 2. This act shall become effective November 1, 2022.

Passed the House of Representatives the 12th day of May, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the 27th day of April, 2022.

Presiding Officer of the Senate

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: _____