

ARKANSAS TOBACCO SETTLEMENT COMMISSION

Enabling Laws

Act 200 of 2010
A.C.A. §19-12-117

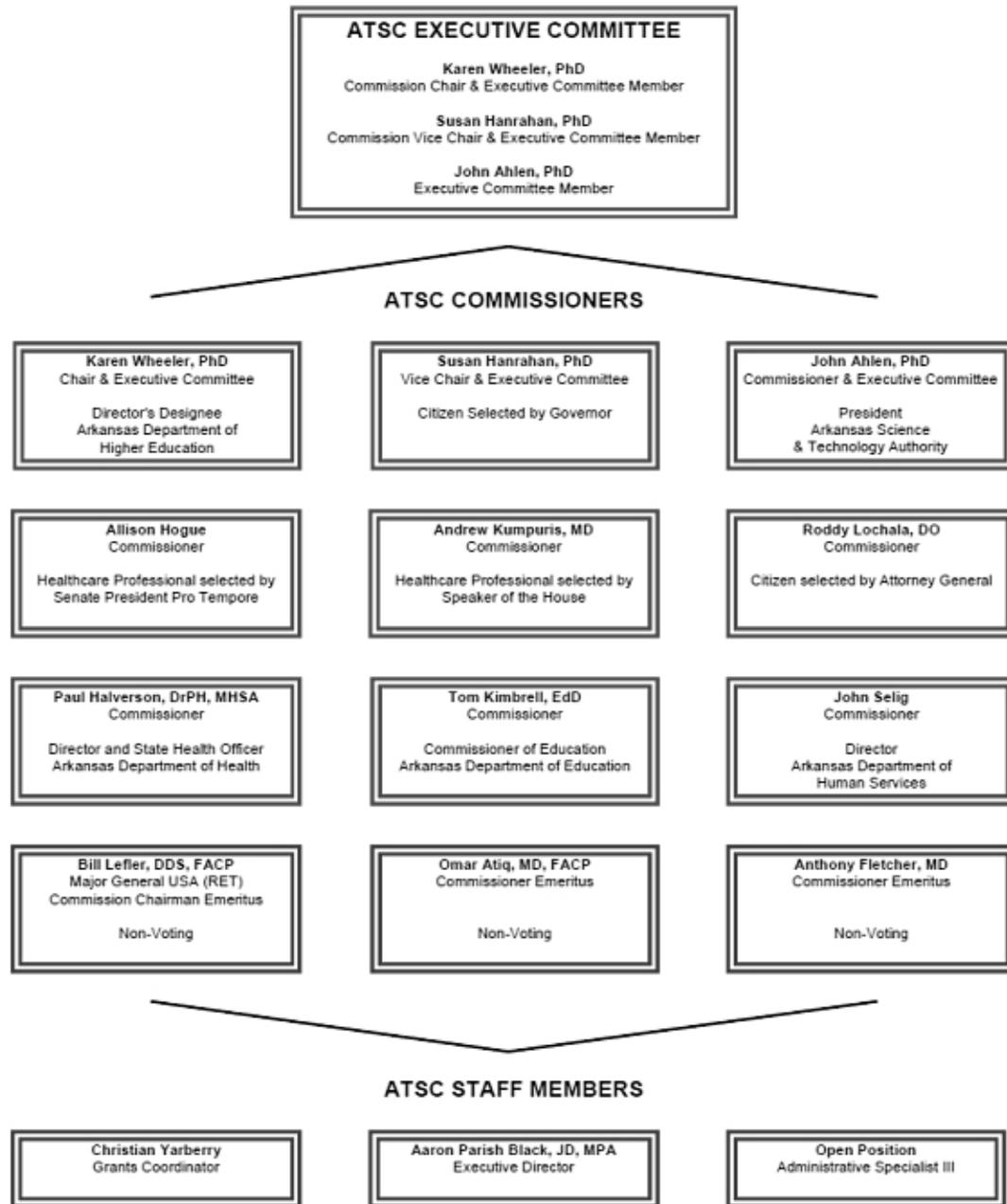
History and Organization

In accordance with Section 17 of the Tobacco Settlement Proceeds Act of 2000, the Arkansas Tobacco Settlement Commission (ATSC) was established October 30, 2001. The purpose of the Commission is to monitor and evaluate programs established in Sections 13, 14, 15, and 16 of the Tobacco Proceeds Act. The Commission shall consist of 9 members that include two citizens (appointed by the Governor, and Attorney General), two healthcare professionals (appointed by the Speaker of the House and the President Pro Tempore of the Senate), and five state agency and division directors of the following agencies: Arkansas Department of Education, Arkansas Science and Technology Authority, Arkansas Department of Higher Education, the Arkansas Department of Health, and the Department of Human Services.

In accordance with Section 18 of the Act, The Commission was established to monitor and evaluate the program activities and expenditures from the program accounts of the Tobacco Settlement. The Tobacco Settlement Program Accounts are as follows:

- Tobacco Prevention and Cessation Programs (§13)
- Fay W. Boozman College of Public Health (§14-c)
- Delta Area Health Education Center (§14-d)
- Arkansas Aging Initiative (§14-e)
- Minority Health Initiative (§14-f)
- Arkansas Biosciences Institute (§15)
- Medicaid Expansion Program (§16)

The Commission is directed to report the progress of these programs to the Governor and General Assembly preceding a legislative session for future appropriation decisions. The Commission is also authorized to administer grants, if the funds exceed the amount necessary to conduct the above-mentioned activities, to non-profit and community-based organizations.



Agency Commentary

The Arkansas Tobacco Settlement Proceeds Act of 2000 established funds and accounts for the deposit, investment and management of the State of Arkansas' portion of the Master Settlement Agreement (MSA) with tobacco manufacturers. The Arkansas Tobacco Settlement Commission (ATSC) was created pursuant to Section 17 of this act to monitor and evaluate expenditures made from the four program accounts. Those program accounts are the Prevention and Cessation Program Account, the Targeted State Needs Program Account, the Arkansas Biosciences Institute Program Account and the Medicaid Expansion Program Account.

The Commission is funded from the investment earnings of the Tobacco Settlement Program Fund and Program Accounts, which are deposited as trust funds into the Arkansas Tobacco Settlement Commission Fund. The Commission is authorized to hire an independent third-party to monitor and evaluate program account expenditures and prepare a biennial report for the General Assembly and Governor by each August 1 preceding a regular session of the General Assembly. As funding permits, the Commission is also authorized to make grants in amounts not to exceed \$50,000 to non-profit and community-based organizations.

In 2009, the ATSC entered into a contract with the Office of the Attorney General to pay up to \$500,000 in costs associated with defending the state in the MSA arbitration which was instigated by tobacco companies earlier that year. Due to the lack of appropriations, the Office of the Attorney General requires the ATSC to pay their vendors directly for services rendered to the Attorney General. The DFA Office of Accounting has informed the ATSC that these items cannot come directly from Professional Services, where they were budgeted, but instead they must come from the appropriate line item associated with the actual expense. Therefore the ATSC requested a Budget Classification Transfer in both fiscal years 2010 and 2011 in order to pay for the cost of this defense. The Office of the Attorney General felt it best that the Commission continue this funding mechanism into fiscal years 2012 and 2013. Many of these expenses are yet unknown, but the best estimate provided by the Attorney General at this time includes having \$150,000 within the Operating expenses line item (02) and \$350,000 in the Professional Services line item (10). Both these items reflect this in the Commission's budget request.

Due to significant decreases in interest income, the Commission has been forced to reduce appropriation in Operating Expenses line item (02) by \$1,000, Professional Services line item (10) by \$100,000, and the Grants and Aid line item (04) by \$1,250,000 in FY12 and \$1,063,000 in FY13. Overall the Commission has been forced to reduce its budget by 38% from \$3,551,879 in fiscal year 2011 to \$2,200,870 for fiscal year 2012.

Performance Audit Findings

Tobacco Settlement Proceeds Act
Arkansas Tobacco Settlement Commission
(July 1, 2004 – June 30, 2009) - Issued 11-13-2009

Findings and Conclusions:

- The UAPB Master of Science in Addiction Studies Program used only \$291,894 of their \$551,025 grant award from the Arkansas Department of Health (ADH).
- The Minority Health Commission is in the early stages of implementing an online reporting system through which grantees will submit required documentation for review.
- The Minority Health Commission had unexpended fund balances of \$1.5 million transferred back to the Tobacco Settlement Program Fund over the last 3 bienniums.
- 7 research grant recipients within the Arkansas Biosciences Institute Program did not submit annual progress reports.
- The Medicaid Expansion Program had a fund balance of \$48.7 million at June 30, 2009, which may be used to supplement the Arkansas Medicaid Program if approved by the Governor and the Chief Fiscal Officer.
- The lack of a centralized grant registry inhibits the ability of those with oversight responsibility, including the General Assembly, to monitor the use of proceeds received by the State, identify potential duplicative programs, and obtain up-to-date information in a timely manner.

Recommendations:

- ADH continue working with UAPB to ensure grant awards are fully and effectively utilized.
- Arkansas Biosciences Institute consider implementing consequences for noncompliance with submission of annual progress reports or other grant requirements.
- The Arkansas Tobacco Settlement Commission develop a centralized financial and grant database to serve as a singular source of information for all expenditures and grants awarded by the various entities under the Tobacco Settlement Proceeds Act.

Employment Summary

	Male	Female	Total	%
White Employees	2	1	3	100 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			0	0 %
Total Employees			3	100 %

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
ATSC Biennial Report	A.C.A. §19-12-117	Y	Y	200	Required by law
ATSC Quarterly Report	Special Language	N	Y	75	Required to keep Public Health Welfare & Labor informed of Tobacco Program activities.

Agency Position Usage Report

FY2008 - 2009						FY2009 - 2010					FY2010 - 2011						
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
2	2	0	2	0	0.00 %	3	2	1	3	0	33.33 %	3	2	1	3	0	33.33 %

Analysis of Budget Request

Appropriation: 468 - Operations

Funding Sources: TSC - Tobacco Settlement Commission

The Tobacco Settlement Proceeds Act (Initiated Act 1 of 2000) established funds and accounts for the deposit, investment and management of the State of Arkansas' portion of the Master Settlement Agreement with certain tobacco manufacturers. The Arkansas Tobacco Settlement Commission (ATSC) was created pursuant to Section 17 of this act to monitor and evaluate expenditures made from the four program accounts. Those program accounts are the Prevention and Cessation Program Account, the Targeted State Needs Program Account, the Arkansas Biosciences Institute Program Account and the Medicaid Expansion Program Account.

The Commission is funded from the investment earnings of the Tobacco Settlement Program Fund and Program Accounts, which are deposited as trust funds into the Arkansas Tobacco Settlement Commission Fund. The Commission is authorized to hire an independent third-party to monitor and evaluate program account expenditures and prepare a biennial report for the General Assembly and Governor by each August 1 preceding a regular session of the General Assembly. As funding permits, the Commission is also authorized to make grants in amounts not to exceed \$50,000 to non-profit and community-based organizations.

Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Career Service Payments.

The Commission's Change Level Request provides for Base Level budget reductions from Operating Expenses (\$1,000), Professional Fees (\$100,000), and Grants & Aid (FY12: \$1,250,000; FY13: \$1,063,000) due to reduced interest income on investment earnings. The Commission's request also provides for Reallocations of \$15,925 in Operating Expenses to adjust existing budget to proper expenditure classifications and to provide for expenditures of the Attorney General's Office for defending the state in Master Settlement Agreement arbitration instigated by tobacco companies.

The Executive Recommendation provides for the Commission Request.

Appropriation Summary

Appropriation: 468 - Operations
Funding Sources: TSC - Tobacco Settlement Commission

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2009-2010 Actual	2010-2011 Budget	2010-2011 Authorized	2011-2012			2012-2013		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	125,037	142,438	141,148	141,238	141,238	141,238	141,238	141,238	141,238
#Positions		3	3	3	3	3	3	3	3	3
Personal Services Matching	5010003	36,942	42,685	41,721	42,527	42,527	42,527	42,527	42,527	42,527
Operating Expenses	5020002	76,566	198,870	48,870	198,870	197,870	197,870	198,870	197,870	197,870
Conference & Travel Expenses	5050009	751	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Professional Fees	5060010	417,794	1,100,000	1,250,000	1,100,000	1,000,000	1,000,000	1,100,000	1,000,000	1,000,000
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Grants and Aid	5100004	601,571	2,250,000	2,250,000	2,250,000	1,000,000	1,000,000	2,250,000	1,187,000	1,187,000
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		1,258,661	3,736,993	3,734,739	3,735,635	2,384,635	2,384,635	3,735,635	2,571,635	2,571,635
Funding Sources										
Fund Balance	4000005	6,751,949	6,644,922		2,957,108	2,957,108	2,957,108	221,473	1,572,473	1,572,473
Transfer from Tobacco Settlmnt	4000590	1,151,634	49,179		1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Total Funding		7,903,583	6,694,101		3,957,108	3,957,108	3,957,108	1,221,473	2,572,473	2,572,473
Excess Appropriation/(Funding)		(6,644,922)	(2,957,108)		(221,473)	(1,572,473)	(1,572,473)	2,514,162	(838)	(838)
Grand Total		1,258,661	3,736,993		3,735,635	2,384,635	2,384,635	3,735,635	2,571,635	2,571,635

The FY11 Budget amount in Regular Salaries and Personal Services Matching exceeds the authorized amount due to salary and matching rate adjustments during the 2009-2011 biennium.

Budget exceeds Authorized Appropriation in Operating Expenses by authority of a Budget Classification Transfer.

Change Level by Appropriation

Appropriation: 468 - Operations
Funding Sources: TSC - Tobacco Settlement Commission

Agency Request

Change Level		2011-2012	Pos	Cumulative	% of BL	2012-2013	Pos	Cumulative	% of BL
BL	Base Level	3,735,635	3	3,735,635	100.0	3,735,635	3	3,735,635	100.0
C03	Discontinue Program	(1,351,000)	0	2,384,635	63.8	(1,164,000)	0	2,571,635	68.8
C04	Reallocation	0	0	2,384,635	63.8	0	0	2,571,635	68.8

Executive Recommendation

Change Level		2011-2012	Pos	Cumulative	% of BL	2012-2013	Pos	Cumulative	% of BL
BL	Base Level	3,735,635	3	3,735,635	100.0	3,735,635	3	3,735,635	100.0
C03	Discontinue Program	(1,351,000)	0	2,384,635	63.8	(1,164,000)	0	2,571,635	68.8
C04	Reallocation	0	0	2,384,635	63.8	0	0	2,571,635	68.8

Justification

C03	Due to decreases in investments & interest income, the Commission must reduce budget for Operating Expenses (\$1,000); Professional Fees (\$100,000) and Grants & Aid (FY12: \$1,250,000; FY13: \$1,063,000) in order to align budget with existing revenue. The Commission is working with the Treasurer's Office to diversify and improve on investment returns.
C04	The Commission has requested to reallocate existing Operating Expenses budget of \$15,925 from Copying, Telecommunications Wired, Office Equipment Rental, Advertising, Board Member Travel Other & Other Expenses & Services to Parking Fees, Network Services Expense (Internet), Telecommunications Wireless, Office Supplies, Postage & Board Member Travel Expenses in order to adjust existing budget to proper expenditure classifications, to align budget with historical expenditures, and to provide for expenditures of the Attorney General's Office related to defending the state in Master Settlement Agreement arbitration instigated by tobacco companies.