

ARKANSAS TOBACCO SETTLEMENT COMMISSION

Enabling Laws

Act 224 of 2016
A.C.A. §19-12-117

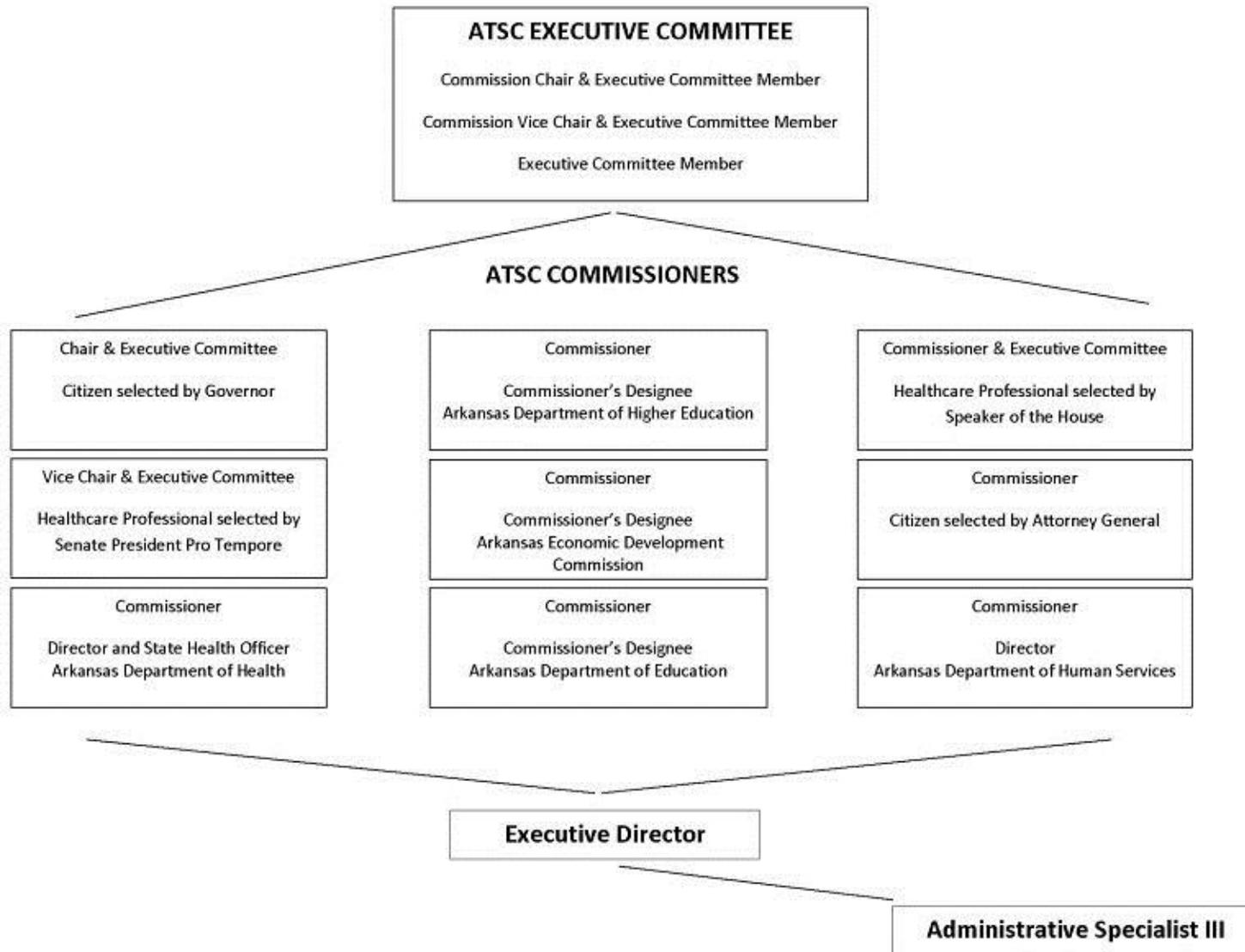
History and Organization

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 Economic Development Commission, 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)
- UAMS East (§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 Commission (ATSC) was created pursuant to Section 17 of the Act to monitor and evaluate expenditures made from the program accounts. Those program accounts are the Prevention and Cessation Program Account, the Targeted State Needs Program Account, the Arkansas Biosciences Institute Program and 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 in the Arkansas Tobacco Settlement Commission Fund. The Commission is authorized to hire an independent third party to monitor and evaluate progress in the programs and prepare a biennial report for the General Assembly and Governor by each August 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.

The Commission is requesting a decrease of \$500,000 in Professional Fees and a decrease of \$937,000 in Grants and Aid. This request is to restructure authorized appropriation to more accurately reflect the operations of The Arkansas Tobacco Settlement Commission.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS TOBACCO SETTLEMENT COMMISSION
FOR THE YEAR ENDED JUNE 30, 2015

Findings

In accordance with Ark. Code Ann. § 19-4-702, agencies are allowed to pay carryover obligations up to 45 days after the end of the fiscal year, but the carryover obligations "shall be charged against appropriations and fund cash balances of the fiscal year in which the obligations were incurred." R1-19-4-702 of Department of Finance and Administration (DFA) Financial Management Guide requires prior-year obligations paid in the first 45 days of the current year to be identified and recorded as accounts payable for the prior year. This is generally achieved by adding a preceding "Y" reference to the vendor's invoice number in the reference field.

Again, the Agency did not properly reflect its liabilities at the end of the fiscal year. It was

Recommendations

We recommend the Agency comply with state laws and regulations pertaining to the proper recognition and payment of accounts payable.

Agency Response:

While I cannot speak to what occurred in our Agency before I was hired as the Executive Director on March 2, 2015, I can assure you that the Agency will comply with state laws and regulations pertaining to the proper recognition and payment of accounts payable. Any prior-year obligations paid in the first 45 days of the current year will be identified and recorded as Accounts Payable for the prior year and will be marked with a "Y" reference to the vendor's invoice number in the reference field.

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS TOBACCO SETTLEMENT COMMISSION
FOR THE YEAR ENDED JUNE 30, 2015

Findings

noted that the Agency made a \$29,291 payment in fiscal year 2015 for expenses incurred in fiscal year 2014. The payment was not recorded as a "Y" voucher and the appropriate journal entries were not made to record accounts payable at the end of the year.

The Agency made two \$500 payments in FY14 and two \$500 payments in FY15, awarding a total of \$2,000 to four individuals for their achievements in research at Arkansas Biosciences Institute Symposiums. Arkansas Biosciences Institute is one of seven programs the Agency is responsible for monitoring. Personal achievement awards do not fall under the scope of the appropriation for the Arkansas Tobacco Settlement Commission Appropriation Acts 1024 of 2013 and 101 of 2014, which appropriate these funds to be used for "personal services and operating expenses necessary to monitor and evaluate the various program accounts established within the Tobacco Settlement Program Fund." In addition, using the funds of this Agency to reward a program that it is charged with monitoring could suggest a lack of independence between the Agency and that program.

Recommendations

We recommend the Agency discontinue the payment of personal achievement awards and strengthen controls over expenditure approval to avoid transactions that could jeopardize its independence from the seven programs it is charged with monitoring.

Agency Response:

While I cannot speak to what occurred in our Agency before I was hired as the Executive Director on March 2, 2015, the Agency has not made any similar payments for personal achievements awards since that time and will not in the future. All expenditures and financial reports are reviewed by the Commission during the quarterly meetings. Any expenditure that does not fall under the normal scope of business will be approved by the Executive Committee before disbursement is made.

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2016

None

Employment Summary

| | Male | Female | Total | % |
|-------------------------|------|--------|-------|-------|
| White Employees | 0 | 1 | 1 | 50 % |
| Black Employees | 0 | 1 | 1 | 50 % |
| Other Racial Minorities | 0 | 0 | 0 | 0 % |
| Total Minorities | | | 1 | 50 % |
| Total Employees | | | 2 | 100 % |

Publications

A.C.A. 25-1-201 et seq.

| Name | Statutory Authorization | Required for | | # of Copies | Reason(s) for Continued Publication and Distribution | Unbound Black & White Copies Produced During the Last Two Years | Cost of Unbound Copies Produced During the Last Two Years |
|-----------------------|-------------------------|--------------|------------------|-------------|--|---|---|
| | | Governor | General Assembly | | | | |
| ATSC Biennial Report | A.C.A. §19-12-117 | Y | Y | 200 | Required by law | 0 | 0.00 |
| ATSC Quarterly Report | Special Language | N | Y | 75 | Required to keep Public Health Welfare & Labor informed of Tobacco Program activities. | 0 | 0.00 |

Agency Position Usage Report

| FY2014 - 2015 | | | | | | FY2015 - 2016 | | | | | | FY2016 - 2017 | | | | | |
|-------------------|----------|----------|-------|------------------|------------------------|-------------------|----------|----------|-------|------------------|------------------------|-------------------|----------|----------|-------|------------------|------------------------|
| Authorized in Act | Budgeted | | | Unbudgeted Total | % of Authorized Unused | Authorized in Act | Budgeted | | | Unbudgeted Total | % of Authorized Unused | Authorized in Act | Budgeted | | | Unbudgeted Total | % of Authorized Unused |
| | Filled | Unfilled | Total | | | | Filled | Unfilled | Total | | | | Filled | Unfilled | Total | | |
| 3 | 2 | 0 | 2 | 1 | 33.33 % | 2 | 2 | 0 | 2 | 0 | 0.00 % | 2 | 2 | 0 | 2 | 0 | 0.00 % |

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 Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases.

The Base Level request is for appropriation of \$2,400,163 each year of the 2017-2019 Biennium.

The Agency's Change Level request is for decrease in appropriation by (\$1,437,000) each year of the biennium, and includes the following:

- Professional Fees decrease of (\$500,000) each year to more accurately reflect the operations of the Agency.
- Grants and Aid decrease of (\$937,000) each year to more accurately reflect the operations of the Agency.

The Executive Recommendation provides for the Agency 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 | | |
|--------------------------------|---------|---------------------|---------------------|-------------------------|---|------------------|------------------|---|----------------|----------------|
| | | 2015-2016 Actual | 2016-2017 Budget | 2016-2017 Authorized | 2017-2018 | | | 2018-2019 | | |
| | | | | | Base Level | Agency | Executive | Base Level | Agency | Executive |
| Regular Salaries | 5010000 | 98,368 | 94,131 | 95,017 | 94,131 | 94,131 | 94,131 | 94,131 | 94,131 | 94,131 |
| #Positions | | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
| Personal Services Matching | 5010003 | 31,906 | 30,930 | 31,432 | 31,457 | 31,457 | 31,457 | 31,457 | 31,457 | 31,457 |
| Operating Expenses | 5020002 | 32,070 | 84,575 | 84,575 | 84,575 | 84,575 | 84,575 | 84,575 | 84,575 | 84,575 |
| Conference & Travel Expenses | 5050009 | 158 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 |
| Professional Fees | 5060010 | 175,000 | 1,000,000 | 1,000,000 | 1,000,000 | 500,000 | 500,000 | 1,000,000 | 500,000 | 500,000 |
| Data Processing | 5090012 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Grants and Aid | 5100004 | 0 | 1,187,000 | 1,187,000 | 1,187,000 | 250,000 | 250,000 | 1,187,000 | 250,000 | 250,000 |
| Capital Outlay | 5120011 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | | 337,502 | 2,399,636 | 2,401,024 | 2,400,163 | 963,163 | 963,163 | 2,400,163 | 963,163 | 963,163 |
| Funding Sources | | | | | | | | | | |
| Fund Balance | 4000005 | 3,789,882 | 3,659,553 | | 1,386,403 | 1,386,403 | 1,386,403 | 0 | 549,698 | 549,698 |
| Transfer from Tobacco Settlmnt | 4000590 | 207,173 | 126,486 | | 126,458 | 126,458 | 126,458 | 126,486 | 126,486 | 126,486 |
| Total Funding | | 3,997,055 | 3,786,039 | | 1,512,861 | 1,512,861 | 1,512,861 | 126,486 | 676,184 | 676,184 |
| Excess Appropriation/(Funding) | | (3,659,553) | (1,386,403) | | 887,302 | (549,698) | (549,698) | 2,273,677 | 286,979 | 286,979 |
| Grand Total | | 337,502 | 2,399,636 | | 2,400,163 | 963,163 | 963,163 | 2,400,163 | 963,163 | 963,163 |

Expenditure of appropriation is contingent upon available funding.

Change Level by Appropriation

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

Agency Request

| Change Level | | 2017-2018 | Pos | Cumulative | % of BL | 2018-2019 | Pos | Cumulative | % of BL |
|--------------|---------------------|------------------|----------|------------------|--------------|------------------|----------|------------------|--------------|
| BL | Base Level | 2,400,163 | 2 | 2,400,163 | 100.0 | 2,400,163 | 2 | 2,400,163 | 100.0 |
| C03 | Discontinue Program | (1,437,000) | 0 | 963,163 | 40.1 | (1,437,000) | 0 | 963,163 | 40.1 |

Executive Recommendation

| Change Level | | 2017-2018 | Pos | Cumulative | % of BL | 2018-2019 | Pos | Cumulative | % of BL |
|--------------|---------------------|------------------|----------|------------------|--------------|------------------|----------|------------------|--------------|
| BL | Base Level | 2,400,163 | 2 | 2,400,163 | 100.0 | 2,400,163 | 2 | 2,400,163 | 100.0 |
| C03 | Discontinue Program | (1,437,000) | 0 | 963,163 | 40.1 | (1,437,000) | 0 | 963,163 | 40.1 |

Justification

| | |
|-----|---|
| C03 | Decrease in Professional Fees and Grants and Aid to more accurately reflect the operations of the Agency. |
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