



Tobacco Settlement Permanent Trust Account Administration Advisory Committee Meeting

Minutes

Thursday, October 20, 2022

The Tobacco Settlement Permanent Trust Account Administration Advisory Committee (Committee) met on Thursday, October 20, 2022 at 3:00 p.m. at the Department of State Health's Bernstein Building conference center, via Microsoft Teams virtual meeting application, and conference call system.

Committee Members Present:

In person: Commissioner Rick Bailey; Commissioner Mark Beauchamp; Mr. Michael Nuñez, and Ms. Stephanie McDonald.

Via Microsoft Teams and conference call (cc): Commissioner Kelly Traylor; Commissioner Joe A. Gonzalez; Dr. Jonny F. Hipp; Ms. Maegen A. Garner; Ms. Sharon R. Clark, and Ms. Keri Disney-Story (Acting Chair).

Committee Members Absent:

Mr. Robert King Hillier, Harris County Commissioners Court member. (appointment pending).

Texas Department of State Health Services (DSHS) Staff Members Present:

Elaine McHard, Director, Funds Coordination and Management Branch (FCMB), Amira Sutton, Tobacco Settlement Program Coordinator, and Khan Farhan, Tobacco Settlement Program Attorney.

Additional Attendees:

Ms. Gabriela Villareal with the Texas Conference of Urban Counties.

Welcoming Remarks

Ms. McHard started meeting at 3:04 p.m. Ms. McHard introduced herself and Ms. Sutton and thanked the committee members for attending the meeting in person and joining virtually via Microsoft Teams and conference call. Ms. McHard also stated the meeting was open to the public and was being held in accordance with the Open Meetings Act. The link to the webcast was made available to the committee members on the agenda and to the public on the Texas Health and Human Services' website.

**Tobacco Settlement Permanent Trust Account
Administration Advisory Committee Meeting
October 20, 2022 Minutes**

Call to Order

Acting Chair, Ms. Keri Disney-Story, called the meeting to order at 3:06 p.m.

Roll Call

Roll call was taken by Ms. McHard. It was noted that Mr. Robert King Hillier has not been reappointed to the committee by the Harris County Commissioners Court. Ms. McHard stated that Chairman King Hillier's reappointment was still pending, therefore, Ms. Keri Disney-Story stood in as the acting Committee Chair.

The Tobacco Settlement Permanent Trust Account Administration Advisory Committee may act only on the affirmative votes of eight members of the committee. A quorum of ten (10) members were present at the October 20, 2022 meeting - quorum was met.

Introduction of New Committee Members

Ms. McHard indicated there was one new member on the Committee, Ms. Maegen A. Garner. Ms. Garner was appointed by the Seminole Hospital District located in Seminole, Texas.

Approval of Meeting Minutes

Acting Chairwoman Disney-Story identified two sets of meeting minutes requiring committee approval as the committee quorum was not met last year. The first set of minutes presented were from the October 29, 2020 meeting. Ms. Disney-Story advised the committee to review these located under Tab 3, page 10 through page 15, of the packet.

Ms. Disney-Story asked if there was a motion to approve the **October 29, 2020** minutes as circulated. Ms. Sharon Clark proposed a motion to approve the minutes and Commissioner Mark Beauchamp second the motion. Commissioner Traylor, Commissioner Gonzalez, Dr. Hipp, Ms. Disney- Story, Commissioner Beauchamp, Mr. Nuñez, Ms. Clark, and Ms. McDonald provided a motion to approve minutes by voting "Yes". Ms. Garner and Commissioner Bailey abstained their votes due to being absent from the 2020 meeting. No votes were cast in opposition to the motion to approve.

Acting Chairwoman Disney-Story asked if there was a motion to approve the **October 28, 2021** minutes as circulated. Ms. Clark proposed a motion to approve the minutes and Commissioner Bailey second the motion. Commissioner Bailey, Commissioner Traylor, Commissioner Gonzalez, Dr. Hipp, Commissioner Beauchamp, Mr. Nuñez, Ms. Clark, and Ms. McDonald provided a motion to approve the minutes by voting "Yes".

**Tobacco Settlement Permanent Trust Account
Administration Advisory Committee Meeting
October 20, 2022 Minutes**

Ms. Garner and Ms. Disney-Story abstained their votes due to being absent from the 2021 meeting. No votes were cast in opposition to the motion to approve.

2022 Distribution

Ms. McHard outlined the timeline for the 2022 distribution of tobacco settlement proceeds as follows:

- On December 31, 2021, FCMB staff mailed expenditure statements to all eligible political subdivisions along with information regarding the March 31, 2022 deadline for submission.
- On April 11, 2022, certification of the percentage of the annual distribution used to determine the pro rata share for each political subdivision was provided by FCMB staff to the Texas Comptroller of Public Accounts (Comptroller's office).
- On April 28, 2022, the Comptroller's office issued payment of the pro rata shares to participating political subdivisions.

Ms. McHard referred the Committee members to the 2022 distribution overview on page 16 of the packet. She noted that a total of 301 political subdivisions were eligible for a pro rata share of tobacco settlement proceeds. Of those 301, only 296 received a pro rata share, including 1 city, 156 counties, and 144 hospital districts. The city received 0.01% of the distribution, counties received 8.93% of the distribution, and hospital districts received 91.06% of the distribution.

Ms. McHard further noted that three political subdivisions (i.e., Grapeland Hospital District, Texoma Hospital District and Chillicothe Hospital District) chose not to submit expenditure statements. Of the political subdivisions, two (i.e., Armstrong County and Camp County) reported zero expenditures. Ms. McHard stated that the annual distribution amount for 2022 was \$80,771,903.00. The largest pro rata distribution, \$18,880,994.21, paid to Harris County Hospital District and the smallest pro rata distribution, \$1.62, paid to King County. Ms. McHard indicated the packet included an itemized list of each political subdivision's expenditures reported, pro rata share received, and an analysis reflecting the total distribution and expenditures reported over the life of the Tobacco Settlement Distribution Program.

Ms. McHard referred the committee members to page 24 that provided information pertaining to the history of contributions, distributions, and expenditures reported since the inception of the program. Ms. McHard noted that expenditures reported over the years totaled to \$59,018,899,574.15

**Tobacco Settlement Permanent Trust Account
Administration Advisory Committee Meeting
October 20, 2022 Minutes**

and total distributions made from the trust account were \$ 1,710,182,448.82.

Committee member Stephanie McDonald asked a question regarding the City of Seguin distribution participation. Ms. McHard responded she would revisit the Tobacco Distribution Settlement Program rule regarding the City of Seguin eligibility and respond after the meeting.

Committee member Dr. Hipp asked for clarification regarding the expenditure statement packet delivery timeline and notices.

Ms. McHard explained that the first communication is the verification form which requires a 100 percent compliance from the political subdivisions that the packet was received by them. Once the packet has been received, FCMB gives political subdivisions an ample amount of time before FCMB staff start sending an email reminder. Prior to receiving the expenditures statement packets by the deadline of March 31st, the FCMB staff sends several email reminders. In addition to email reminders, FCMB implements a phone call protocol that begins three weeks before the due date. FCMB staff begin calling the county judge, or a commissioner or whoever is the CEO of the facility of the hospital district and ask them if they plan to submit anything (i.e., expenditure statements) since the deadline is fast approaching. Ms. McHard further clarified that FCMB staff offer technical assistance if it's needed and offer anything within our power to help political subdivisions meet the deadline. FCMB staff use phone calls as a final reminder to political subdivisions that did not submit their expenditure statements. Ms. McHard mentioned that there are at least five reminders that are received by the political subdivisions over the course of between January 1st through March 31st, and possibly more than that if FCMB accounted for the phone calls.

No other questions or comments were posed by the Committee.

2022 Audit Analysis

Ms. McHard referred the Committee members to page 25 of the meeting packet for information pertaining to the 2022 audits. Ms. McHard revisited the new audit selection process. The new method involved sorting the list of participating political subdivisions by expenditures reported and then dividing the list into 10 groups approximately equal in size. Ms. McHard explained that FCMB staff then randomly selected one political subdivision to audit from each of those ten groups.

Ms. McHard referred to the 2022 Table of Audited Entities. Ms. McHard noted that one political subdivision was found to have overclaimed

**Tobacco Settlement Permanent Trust Account
Administration Advisory Committee Meeting
October 20, 2022 Minutes**

expenditures, Lee County. Therefore, a recoupment would be made during the 2023 pro rata share distribution.

No other questions or comments were posed by the Committee regarding the 2022 audits.

General Items

Ms. McHard mentioned that the Investment Advisory Committee (IAC) was meeting the following day, October 21, 2022, in person meeting only. Ms. McHard referred the Committee members to the email previously distributed by Ms. Sutton that included a meeting agenda and the link to the IAC virtual WebEx meeting.

Ms. McHard referred the Committee members to a 2023 planning calendar on page 27 of the meeting packet. She proposed a tentative date of Thursday, October 26, 2023, for the next annual Committee meeting and indicated that FCMB staff was open to working with the Committee members' schedules. Ms. McHard said FCMB staff would send out a poll to determine a convenient time to meet for next year's meeting. No motion to oppose the tentative meeting date was noted.

Commissioner Bailey noted that it looked like the distribution amount might be very different from what had been distributed previously. The amount might be much smaller next year.

Ms. McHard reminded the Committee members that page 30 of the meeting packet comprised a screenshot of the Tobacco Settlement Distribution Program web site, which can be accessed for a history of tobacco settlement distributions, Committee membership information, frequently asked questions, and program rules.

Administrative Advisory Committee Rules Review

Ms. McHard reminded committee members that it was time to complete rules review of the Tobacco Distribution Settlement Program. Ms. McHard mentioned that by statute the Program Rules review should be done every four years. Ms. McHard recommended to committee members to turn to page 31 for a copy of Tobacco Distribution Settlement Program Rules 25-Texas Administrative Code document. Ms. McHard suggested that the Tobacco Distribution Settlement Program will gladly add the Administrative Advisory Committee Rules Review to the next year agenda if the committee voted "Yes". Ms. McHard turned the article over to Acting Chairperson Disney-Story for committee discussion.

**Tobacco Settlement Permanent Trust Account
Administration Advisory Committee Meeting
October 20, 2022 Minutes**

Acting Chairperson Disney-Story opened an article for review, discussion, and vote to place the Program Rules 25-Texas Administrative Code Rule Review on the agenda for the next year (2023) Administrative Advisory Committee meeting when all pending members have been appointed. Commissioner Baily suggested that he supports this motion since it would help new committee members to further learn more about this very important program. No votes were cast in opposition to the motion to approve.

There were no comments or questions from the public.

Adjourn

Acting Chairperson Disney-Story adjourned the meeting at 3:38 p.m.