



## **Tobacco Settlement Permanent Trust Account Administration Advisory Committee Meeting**

### **Minutes**

**Thursday, October 28, 2021**

The Tobacco Settlement Permanent Trust Account Administration Advisory Committee (Committee) met on Thursday, October 28, 2021, at 3:00 p.m. in person and via Microsoft Teams Event Virtual meeting.

**Committee Members Present** – in person, via Microsoft Teams Live Event and conference call (cc). Commissioner Kelly Traylor; Commissioner Joe A. Gonzalez; Dr. Jonny F. Hipp; Mr. Larry Gray; Mr. Michael Nuñez; Ms. Stephanie McDonald; Ms. Sharon R. Clark; and Commissioner Rick Bailey.

**Committee Members Absent**  
Judge Jerry Bearden has retired.

**Texas Department of State Health Services (DSHS) Staff Members Present**  
Elaine McHard, Manager, Funds Coordination and Management Branch (FCMB) and Amira Sutton Tobacco Settlement Program Coordinator, FCMB.

**Additional Attendees**

Mr. Darryl Primo; Mr. Robert King Hillier; Mr. Mark Beauchamp; Ms. Keri Disney-Story; and Ms. Sharon Munroe, Program Specialist with the DSHS Center for System Coordination and Innovation.

**Call to Order**

Mr. Michael Nuñez called the meeting to order at 3:16 p.m. CT.

**Welcoming Remarks**

Ms. McHard introduced herself and Ms. Sutton and thanked the Committee members for joining the meeting in person and virtually via Microsoft Teams Event. 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.

**Roll Call**

Roll call was taken by Ms. McHard. It was noted that Mr. Robert King Hillier was not reappointed (attended as a guest), Keri Disney-Story was not reappointed (attended as a guest), and Mr. Mark Beauchamp was not reappointed (attended as a guest). The Honorable Jerry Bearden retired and was not present during roll call.

Ms. McHard stated that Chairman Robert King Hillier's reappointment was still pending; and was not participating in the meeting as a committee member. Mr. Michael Nuñez stood in for Mr. Hillier as Committee chair.

**Introduction of New Committee Members**

Ms. McHard indicated there were three new members on the Committee: Commissioner Kelly Traylor who represents the North and East Texas County Judges and Commissioners Association, Judge Rick Bailey who represents the County Judges and Commissioners Association of Texas, and Commissioner Joe A. Gonzalez who represents the South Texas County Judges and Commissioners Association.

Ms. McHard indicated there was one reappointment to the committee. Mr. Larry Gray was reappointed to his membership with the Committee representing the Seminole Hospital District - Seminole, Texas.

### **Approval of Meeting Minutes**

Mr. Michael Nuñez advised that approval of the minutes be tabled. The minutes will be considered for approval during the next meeting scheduled for October 20, 2022.

### **2021 Distribution**

Ms. McHard outlined the timeline for the 2021 distribution of tobacco settlement proceeds as follows. On December 31, 2020, FCMB staff mailed expenditure statements to all eligible political subdivisions along with information regarding the March 31, 2021, deadline to submit. On April 13, 2021, 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 23, 2021, the Comptroller's office issued payment of the pro rata shares to participating political subdivisions.

Ms. McHard referred the Committee members to the 2021 distribution overview on page 7 of the meeting 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 0.05% of the distribution, counties received 9.36% of the distribution, and hospital districts received 90.60% of the distribution.

Ms. McHard further noted that three political subdivisions chose not to submit expenditure statements (Grapeland Hospital District, Chillicothe Hospital District, and Texoma Hospital District). Two political subdivisions that reported zero expenditures were Armstrong County and Roberts County. Two political subdivisions that reported for the first time were Loving County and Bosque County Hospital District.

Ms. McHard stated that the annual distribution amount for 2021 was \$75,630,577.00, with the largest distribution, \$15,422,202.80, paid to Harris County Hospital District. Ms. McHard indicated that the meeting packet also 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.

### **Audit Analysis**

Ms. McHard referred the Committee members to page 15 of the meeting packet for information pertaining to the 2021 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 uses a computer application to randomly select one political subdivision to audit from each of those ten groups.

Mr. Beauchamp asked Ms. McHard if the audit process was manageable. Ms. McHard confirmed the audit process, as described, was satisfactory.

Ms. McHard further discussed the feedback and technical assistance her staff provided to the audited political subdivisions during the audit process. She indicated that FCMB staff has noticed statements contain relevant information that results in clarity related to the expenditures being requested for consideration. She believes this is, in part, due to spending time educating participants in the expenditure reporting process. Ms. McHard asked the Committee members if they had any additional questions. There were no additional comments.

Ms. McHard referred to the table entitled 2021 Audits. Ms. McHard noted that 3 political subdivisions were found to have overclaimed expenditures: Falls County, Kimble Hospital District, and Seminole Hospital District. Therefore, recoupment would be made during the 2022 pro rata share distribution.

Mr. Beauchamp asked Ms. McHard if overpayments were returned to the account. Ms. McHard provided a brief overview of the recoupment process. She explained that a pro rata expenditure spreadsheet was mathematically set up to absorb overpayments back into the subsequent year's distribution amount and then reapply them by percentages to all eligible political subdivisions, excluding the overclaimed political subdivisions.

No other questions or comments were posed by the Committee regarding the 2021 audits.

Ms. McHard referred the Committee members to page 14 of the meeting packet for information pertaining to the history of contributions, distributions, and expenditures reported since the inception of the program.

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Ms. McHard noted that expenditures reported over the years totaled to \$54,430,641,896.44 and total distributions made from the trust account were \$1,629,410,545.82.

**General Items**

Ms. McHard mentioned that the Investment Advisory Committee (IAC) was meeting the following day, October 29, 2021, using virtual WebEx meeting. 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 2022 planning calendar on page 17 of the meeting packet. She proposed a tentative date of Thursday, October 27, 2022, 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.

Ms. McHard reminded the Committee members that page 18 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.

There were no comments or questions from the public.

**Adjourn**

Ms. McHard adjourned the meeting at 3:55 p.m.

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