

Title 19. Public Finance

Chapter V. Arkansas Tobacco Settlement Commission, Department of Health

Subchapter A. Generally

Part 35. Bylaws of the Arkansas Tobacco Settlement Commission

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"AS AMENDED BY THE COMMISSION ON JULY 10, 2018"

Subpart 1. Generally

19 CAR § 35-101. Commission creation and operation.

(a) Commission creation.

(1) The Arkansas Tobacco Settlement Commission is an agency of state government created by Sections 17 and 18 of the Tobacco Settlement Proceeds Act, which is codified at Arkansas Code § 19-12-101 et seq.

(2) The commission is authorized under Arkansas Code § 19-12-117(e) to adopt bylaws for the governance of the commission.

(b) Commission procedure and policy.

(1)(A) The business of the commission shall be conducted pursuant to:

- (i) State law;
- (ii) This part; and
- (iii) Robert's Rules of Order.

(B) State law will supersede this part and Robert's Rules of Order.

(C) This part will supersede Robert's Rules of Order.

(D) All meetings will be conducted in conformity with the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

(2)(A) The commission staff and members shall use the most current version of the Department of Shared Administrative Services Office of Personnel Management's Policy and Procedures Manual.

(B) Commission staff shall comply with all applicable state law and rules regarding the budget, operation, and function of the commission offices and the commission duties.

Authority. Arkansas Code § 19-12-117.

Codification Notes. Sections 17 and 18 of the Tobacco Settlement Proceeds Act are codified as Arkansas Code §§ 19-12-117 and 19-12-118, respectively.

19 CAR § 35-102. Commission membership.

(a) Appointed members.

(1)(A) Appointed members are the four (4) members of the Arkansas Tobacco Settlement Commission who serve by virtue of being appointed by a political official.

(B) These members include a:

(i) Healthcare professional to be selected by the President Pro Tempore of the Senate;

(ii) Healthcare professional to be selected by the Speaker of the House of Representatives;

(iii) Citizen selected by the Governor; and

(iv) Citizen selected by the Attorney General.

(2) Appointed members shall serve four-year terms and are limited to serving two (2) consecutive four-year terms.

(3)(A) Appointed members shall begin to serve immediately upon appointment, but appointed member terms shall begin on October 1 of the year a member is appointed by their respective political official.

(B) Appointed members shall serve until replaced by a new appointee.

(4) Appointed members have full voting rights pertaining to Arkansas Tobacco Settlement Commission business.

(b) Ex officio members.

(1)(A) Ex officio members are the five (5) members who serve on the Arkansas Tobacco Settlement Commission as a result of being an agency director.

(B) These members include:

(i) The Director of the Arkansas Economic Development Commission or his or her designee;

(ii) The Commissioner of Elementary and Secondary Education or his or her designee;

(iii) The Director of the Division of Higher Education or his or her designee;

(iv) The Secretary of the Department of Human Services or his or her designee; and

(v) The Secretary of the Department of Health or his or her designee.

(2) Ex officio members, whether the director of the agency or the director's designee, have full voting rights pertaining to Arkansas Tobacco Settlement Commission business.

(c) Reimbursement of expenses.

(1) Appointed members of the Arkansas Tobacco Settlement Commission and ex officio members shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with Arkansas Code § 25-16-902, to be paid from funds appropriated for the Arkansas Tobacco Settlement Commission.

(2) The Arkansas Tobacco Settlement Commission shall vote in its first meeting of every year to approve this expense.

Authority. Arkansas Code § 19-12-117.

19 CAR § 35-103. Quorum and voting.

(a) Quorum.

(1) The presence of five (5) members of the Arkansas Tobacco Settlement Commission, whether appointed or ex officio, shall constitute a quorum for commission business.

(2) The presence of at least a majority of the members of a committee of the commission shall constitute a quorum for committee business.

(b) **Voting.** The Chair of the Arkansas Tobacco Settlement Commission may call for votes through any method:

(1) Allowed under Robert's Rules of Order; or

(2) Approved by the members of the commission.

(c) **Election of officers and committees.** Commission officers and committee members shall be elected at the last meeting of each calendar year.

Authority. Arkansas Code § 19-12-117.

19 CAR § 35-104. Commission officers.

(a) The Arkansas Tobacco Settlement Commission membership shall elect from its body officers to serve in the following capacities and to perform the following duties.

(b) The term of service for these officers shall be at least one (1) year.

(c) If the commission has not selected officers to replace them after the year period, then the officers will continue to serve until their successors have been selected.

(d) Chair of the Arkansas Tobacco Settlement Commission:

(1) Presides over all commission meetings;

(2) Serves as chair of the Executive Committee;

(3) Serves as an ex officio member of all commission committees; and

(4) Performs any other duties applicable to the position or designated by the commission.

(e) Vice Chair of the Arkansas Tobacco Settlement Commission:

(1) Presides at commission meetings in the absence of the chair;

(2) Serves as a member of the Executive Committee; and

(3) Performs any other duties applicable to the position or designated by the commission.

Authority. Arkansas Code § 19-12-117.

19 CAR § 35-105. Commission committees.

(a) Standing committees — Executive Committee.

(1)(A) The Executive Committee shall be composed of three (3) members of the Arkansas Tobacco Settlement Commission.

(B) The Chair of the Arkansas Tobacco Settlement Commission shall serve as chair of the Executive Committee.

(C) The Vice Chair of the Arkansas Tobacco Settlement Commission shall serve on the Executive Committee.

(D) The remaining member of the Executive Committee shall be elected.

(2)(A) The Executive Committee shall monitor and direct administrative procedures and office functions as necessary.

(B) The Executive Committee may also recommend policies, directives, and actions to the commission.

(b) Special committees.

(1) Special committees may be created:

(A) At the directive of the chair; or

(B) By a majority vote of the commission.

(2) A special committee may serve:

(A) For a set term determined in the committee's creation; or

(B) Until dissolved by its respective body of creation.

(c) **Committee membership.** Unless otherwise prescribed in the bylaws or through the committee creation, members of commission committees may be any appointed or ex officio members of the commission.

Authority. Arkansas Code § 19-12-117.

19 CAR § 35-106. Commission meetings.

(a) Regular quarterly meetings.

(1)(A) The Arkansas Tobacco Settlement Commission shall meet at least four (4) times each year as required by the Tobacco Settlement Proceeds Act, Arkansas Code § 19-12-101 et seq.

(B) These meetings shall take place once a quarter at a location and time determined by the Chair of the Arkansas Tobacco Settlement Commission.

(C) Notice will be provided to commissioners prior to each regular quarterly meeting either by:

- (i) Postal mail;
- (ii) Electronic mail; or
- (iii) Telephone.

(2) Commission meetings shall also be posted on the state website calendar and on the commission's website not less than three (3) days prior to the meeting.

(3) The time and place of each regular meeting shall be furnished to anyone who requests the information.

(b) Special called meetings.

(1) The chair may call a special or emergency meeting of the commission at any time, as authorized by the Tobacco Settlement Proceeds Act and as authorized by Arkansas Code § 25-19-106(b)(2).

(2) The chair, or his or her designee, shall notify representatives of the newspapers, radio stations, and television stations, if any, located in the county in which the meeting is to be held and any news media located elsewhere that cover regular meetings of the governing body and that have requested to be so notified of the emergency or special meetings of the time, place, and date of the meeting.

(3) Notification shall be made at least two (2) hours prior to the special or emergency meeting in order that the public shall have representatives at the meeting.

(4) Any special meeting requires notice to commissioners at least twenty-four (24) hours in advance of the meeting, unless this same notice requirement is waived by a majority of commissioners.

(c) Meeting agenda.

(1) The Executive Director of the Arkansas Tobacco Settlement Commission will prepare the agenda for regular and special meetings.

(2) The agenda will be distributed to commission members, Arkansas Tobacco Settlement Commission programs, and be available to the public in advance of the meeting.

(3) The agenda should generally state the items that will be considered at a meeting.

(4) The agenda may be amended by the chair or through a vote of the commission.

Authority. Arkansas Code § 19-12-117.

19 CAR § 35-107. Grants.

(a) **Grant authorization.** Section 17(i) of the Tobacco Settlement Proceeds Act states:

“If the deposits into the Arkansas Tobacco Settlement Commission Fund exceed the amount necessary to pay the costs and expenses described in subsection (h) of this section, then the commission is authorized to make grants as follows:

(1) Those organizations eligible to receive grants are nonprofit and community-based.

(2) Grant criteria shall be established based upon the following principles:

(A) All funds should be used to improve and optimize the health of Arkansans;

- (B) Funds should be spent on long-term projects that improve the health of Arkansans;
 - (C) Future tobacco-related illness and healthcare costs in Arkansas should be minimized through this opportunity; and
 - (D) Funds should be invested in solutions that work effectively and efficiently in Arkansas; and
- (3) Grant awards shall be restricted in amounts up to fifty thousand dollars (\$50,000) per year for each eligible organization.”

(b) Grant policy and procedures.

(1) Following Arkansas Tobacco Settlement Commission staff review for eligibility and compliance with application requirements, an external independent review committee will evaluate applications using a grading system adopted by the Executive Committee.

(2) Grants will be reviewed on a competitive basis, with the independent reviewers using scoring priorities provided to them by the Executive Committee.

(3) All applications will be reviewed and rated quantitatively and qualitatively.

(4) Funding recommendations will be presented to the commission by the Executive Committee.

(5) Final funding decisions will be made by the commission, under the authority granted to them within Arkansas Code § 19-12-117(i) of the Tobacco Settlement Proceeds Act, Arkansas Code § 19-12-101 et seq.

Authority. Arkansas Code § 19-12-117.

Codification Notes. Section 17 of the Tobacco Settlement Proceeds Act is codified as Arkansas Code § 19-12-117.

19 CAR § 35-108. Rulemaking — Authority.

(a) The agency has been authorized by the General Assembly to promulgate rules, Arkansas Code § 19-12-117(e).

(b) The agency follows the procedural requirements of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., in particular Arkansas Code §§ 25-15-203 and 25-15-204.

(c) Additionally, the agency is required to abide by the provisions of Arkansas Code § 10-3-309 and any other statutes or directives applicable to rule promulgation.

Authority. Arkansas Code § 19-12-117.

19 CAR § 35-109. Declaratory orders.

(a) Purpose and use for declaratory orders.

(1) A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority.

(2) A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances.

(3) A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency.

(4) A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

(b) **The petition.** The process to obtain a declaratory order is begun by filing with the Executive Director of the Arkansas Tobacco Settlement Commission a petition that provides the following information:

(1) The caption shall read: "Petition for Declaratory Order Before Arkansas Tobacco Settlement Commission";

(2) The name, address, telephone number, and facsimile number of the petitioner;

(3) The name, address, telephone number, and facsimile number of the attorney of the petitioner;

(4) The statutory provision or provisions, agency rule or rules, or agency order or orders on which the declaratory order is sought;

(5) A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order;

(6) The signature of the petitioner or petitioner's attorney;

(7) The date; and

(8) Request for a hearing, if desired.

(c) Agency disposition.

(1)(A) The agency may hold a hearing to consider a petition for declaratory statement.

(B) If a hearing is held, it shall be conducted in accordance with:

(i) Arkansas Code §§ 25-15-208 and 25-15-213; and

(ii) The agency's rules for adjudicatory hearings.

(2)(A) The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.

(B) Within ninety (90) days of the filing of the petition, the agency will render a final order denying the petition or issuing a declaratory order.

Authority. Arkansas Code § 19-12-117.

19 CAR § 35-110. Information for public guidance.

(a) The Executive Director of the Arkansas Tobacco Settlement Commission shall handle any:

(1) Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., requests; and

(2) Public or press questions regarding the Arkansas Tobacco Settlement Commission.

(b) The public or press may obtain information about the agency or make submissions or requests by:

- (1) Telephone;
- (2) Postal mail; or
- (3) Electronic mail.

Authority. Arkansas Code § 19-12-117.