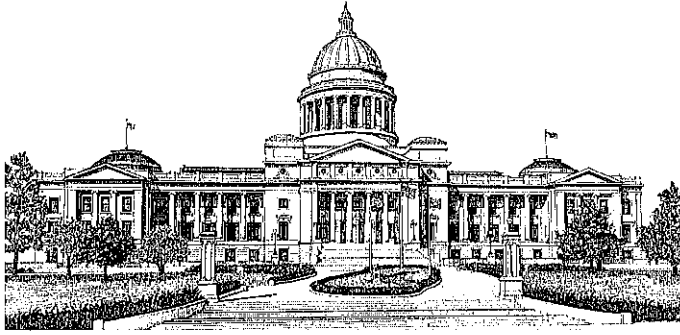


ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
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For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Tobacco Settlement Commission

Department N/A

Contact Matt Gilmore/April Robinson E-mail phillip.gilmore@arkansas.gov or april.robinson@arkansas.gov Phone 501-683-0072 or 501-683-0074

Statutory Authority for Promulgating Rules Tobacco Settlement Proceeds Act, Act 1 of 2000, Ark. Code Ann. § 19-12-101 and § 19-12-117 (e)

Rule Title: Amended Bylaws of the Arkansas Tobacco Settlement Commission

Intended Effective Date
(Check One)

Date

<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published	<u>10/14/2018-10/16/2018</u>
<input type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>11/13/2018</u>
<input checked="" type="checkbox"/> Other <u>02/01/2019</u> (Must be more than 10 days after filing date.)	Reviewed by Legislative Council	<u>12/21/2018</u>
	Adopted by State Agency	<u>7/10/2018</u>

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)
Matt Gilmore phillip.gilmore@arkansas.gov 12/26/2018
Contact Person E-mail Address Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-683-0074 phillip.gilmore@arkansas.gov
Phone Number E-mail Address

Director, Arkansas Tobacco Settlement Commission
Title

12/26/2018
Date

ARKANSAS TOBACCO SETTLEMENT COMMISSION

BYLAWS

AS AMENDED BY THE COMMISSION ON JULY 10, 2018

I. COMMISSION CREATION & OPERATION

A. COMMISSION CREATION

The Arkansas Tobacco Settlement Commission (ATSC) is an agency of state government created by Sections 17 and 18 of the Tobacco Settlement Proceeds Act of 2000, Ark. Code Ann. §19-12-101, *et seq.* ATSC is authorized under Section 19-12-117(e) to adopt bylaws for the governance of the Commission.

B. COMMISSION PROCEDURE & POLICY

1. The business of the Commission shall be conducted pursuant to State law, the Commission Bylaws, and Robert's Rules of Order. State law will supersede the Commission Bylaws and Robert's Rules of Order. The Commission Bylaws will supersede Robert's Rules of Order. All meetings will be conducted in conformity with the Arkansas Freedom of Information Act.
2. The Commission staff and members shall use the most current version of the Arkansas Department of Finance and Administration Office of Personnel Management's *Policy and Procedures Manual*. Commission staff shall comply with all applicable state law, rules, and regulations regarding the budget, operation, and function of the Commission offices and the Commission duties.

II. COMMISSION MEMBERSHIP

A. APPOINTED MEMBERS

1. Appointed members are the four members of the Commission who serve by virtue of being appointed by a political official. These members include:
 - a. A healthcare professional to be selected by the Senate President Pro Tempore;
 - b. A healthcare professional to be selected by the Speaker of the House of Representatives;
 - c. A citizen selected by the Governor; and
 - d. A citizen selected by the Attorney General.
2. Appointed members shall serve four-year terms and are limited to serving two, consecutive four-year terms.
3. 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. Appointed members shall serve until replaced by a new appointee.
4. Appointed Members have full voting rights pertaining to Commission business.

B. EX OFFICIO MEMBERS

1. Ex Officio members are the five members who serve on the Commission as a result of being an agency director. These members include:
 - a. The Director of the Arkansas Economic Development Commission or his or her designee;
 - b. The Director of the Department of Education or his or her designee;
 - c. The Director of the Department of Higher Education or his or her designee;
 - d. The Director of the Department of Human Services or his or her designee;
 - e. The Director 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 Commission business.

C. REIMBURSEMENT OF EXPENSES

1. Appointed Members of the Commission and Ex Officio Members shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this Commission.
2. The Commission shall vote in its first meeting of every year to approve this expense.

III. QUORUM & VOTING

A. QUORUM:

1. The presence of five members of the 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:

1. The Chair of the Commission may call for votes through any method allowed under Robert's Rules of Order or any method approved by the members of the Commission.

C. ELECTION OF OFFICERS & COMMITTEES:

1. Commission officers and committee members shall be elected at the last meeting of each calendar year.

IV. COMMISSION OFFICERS

The Commission membership shall elect from its body officers to serve in the following capacities and to perform the following duties. The term of service for these officers shall be at least one year. 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.

1. Chair:

- a. Preside over all Commission meetings.
- b. Serve as Chair of the Executive Committee.
- c. Serve as an ex officio member of all Commission Committees.
- d. Perform any other duties applicable to the position or designated by the Commission.

2. Vice Chair:

- a. Preside at Commission meetings in the absence of the Chair.
- b. Serve as a member of the Executive Committee.
- c. Perform any other duties applicable to the position or designated by the Commission.

V. COMMISSION COMMITTEES

A. STANDING COMMITTEES

1. EXECUTIVE COMMITTEE

- a. The Executive Committee shall be composed of three members of the Commission. The Chairman of the Commission shall serve as Chairman of the Executive Committee. The Commission Vice Chairman shall serve on the Executive Committee. The remaining member of the Executive Committee shall be elected.
- b. The Executive Committee shall monitor and direct administrative procedures and office functions as necessary. The Executive Committee may also recommend policies, directives, and actions to the Commission.

B. SPECIAL COMMITTEES

Special committees may be created at the directive of the Chairman or by a majority vote of the Commission. A special committee may serve for a set term, determined in the committee's creation, or until dissolved by their 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.

VI. COMMISSION MEETINGS

A. REGULAR QUARTERLY MEETINGS

The Commission shall meet at least four times each year as required by the Act. These meetings shall take place once a quarter at a location and time determined by the Chair. Notice will be provided to Commissioners prior to each regular quarterly meeting either by postal mail, electronic mail, or telephone.

1. 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.
2. 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 Act and as authorized by Ark. Code Ann. § 25-19-106(b)(2).
2. The Chair, or his/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 hours in advance of the meeting, unless this same notice requirement is waived by a majority of Commissioners.

C. MEETING AGENDA

The Executive Director will prepare the agenda for regular and special meetings. The agenda will be distributed to Commission members, ATSC Programs, and be available to the public in advance of the meeting. The agenda should generally state the items that will be considered at a meeting. The agenda may be amended by the Chair or through a vote of the Commission.

VII. 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 Sub-section (h) of this Section, then the ATSC is authorized to make grants as follows:

(A) Those organizations eligible to receive grants are non-profit and community based.

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

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

ii) All funds should be used on long-term projects that improve the health of Arkansans;

iii) Future tobacco-related illness and health care costs in Arkansas should be minimized through this opportunity; and

iv) Funds should be invested in solutions that work effectively and efficiently in Arkansas.

(C) Grant awards shall be restricted in amounts up to fifty-thousand dollars (\$50,000) per year for each eligible organization.

B. GRANT POLICY & PROCEDURES

Following ATSC 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. Grants will be reviewed on a competitive basis, with the independent reviewers using scoring priorities provided to them by the Executive Committee. All applications will be reviewed and rated quantitatively and qualitatively. Funding recommendations will be presented to the ATSC by the Executive Committee. Final funding decisions will be made by the ATSC, under the authority granted to them within the Act §19-12-117(i).

VIII. RULE-MAKING

A. AUTHORITY

The agency has been authorized by the Legislature to promulgate rules, Arkansas Code Annotated §19-12-117(e). The agency follows the procedural requirements of the Arkansas Administrative Procedure Act, in particular A.C.A. §25-15-203 and §25-15-204. Additionally, the agency is required to abide by the provisions of A.C.A. §10-3-309, and any other statutes or directives applicable to rule promulgation.

IX. DECLARATORY ORDERS

A. PURPOSE AND USE OF DECLARATORY ORDERS

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. 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. 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. 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 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(s), agency rule(s), or agency order(s) 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.
8. Request for a hearing, if desired.

C. AGENCY DISPOSITION

1. The agency may hold a hearing to consider a petition for declaratory statement. If a hearing is held, it shall be conducted in accordance with A.C.A. §25-15-208 and §25-15-213, and the agency's rules for adjudicatory hearings.
2. 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. 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.

X. INFORMATION FOR PUBLIC GUIDANCE

The Executive Director shall handle any Arkansas Freedom of Information Act requests, and any public or press questions regarding the Commission. The public or press may obtain information about the agency or make submissions or requests by telephone, postal mail, or electronic mail.

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