

ENGROSSED HOUSE  
BILL NO. 1051

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TYLER, WIDENER, JOHNSON  
(Rob), HEATON, BOECKMAN  
and WEESE of the HOUSE

and

FISHER of the SENATE

AN ACT RELATING TO PUBLIC FINANCE; AMENDING 62 O.S.  
1981, SECTION 71, AS LAST AMENDED BY SECTION 2,  
CHAPTER 168, O.S.L. 1990 (62 O.S. SUPP. 1990,  
SECTION 71), WHICH RELATES TO SELECTION OF  
DEPOSITORIES BY THE STATE TREASURER; PROHIBITING  
THE DESIGNATION OF CERTAIN FINANCIAL INSTITUTIONS  
FOR DEPOSITS; MODIFYING CERTAIN DEFINITION;  
CREATING THE CASH MANAGEMENT AND INVESTMENT  
OVERSIGHT COMMISSION; PROVIDING FOR MEMBERSHIP,  
APPOINTMENTS, EXPERTISE, OFFICERS, MEETINGS,  
REIMBURSEMENT AND DUTIES OF SUCH COMMISSION;  
PROVIDING CERTAIN RESTRICTIONS ON APPOINTEES;  
AMENDING SECTION 8, CHAPTER 194, O.S.L. 1987 (62  
O.S. SUPP. 1990, SECTION 72.4), WHICH RELATES TO  
DEPOSITS OF COLLATERAL SECURITIES; DESIGNATING THE  
HOLDERS OF CERTAIN SECURITIES; AMENDING 62 O.S.  
1981, SECTION 89.2, AS LAST AMENDED BY SECTION 3,  
CHAPTER 194, O.S.L. 1987 (62 O.S. SUPP. 1990,  
SECTION 89.2), WHICH RELATES TO THE INVESTMENT OF

FUNDS BY THE STATE TREASURER; MODIFYING THE LIMITATIONS OF CERTAIN INVESTMENT PURCHASES; MODIFYING THE RECIPIENTS OF COPIES OF THE STATE TREASURER'S INVESTMENT POLICY; AMENDING SECTION 13, CHAPTER 194, O.S.L. 1987 (62 O.S. SUPP. 1990, SECTION 89.7), WHICH RELATES TO CERTAIN QUARTERLY REPORTS BY THE STATE TREASURER; REQUIRING CERTAIN QUARTERLY AND ANNUAL INVESTMENT PERFORMANCE REPORTS; SPECIFYING CONTENTS OF REPORTS; SPECIFYING DISTRIBUTION OF REPORTS; MODIFYING ANNUAL REPORT REQUIREMENT; REQUIRING CERTAIN ANTI-COLLUSION AFFIDAVITS; PROVIDING REPORTING FOR FAILURE OF STATE TREASURER TO DELIVER CERTAIN REPORTS; REQUIRING THE ATTORNEY GENERAL TO PRESCRIBE AND PROVIDE CERTAIN FORMS; SPECIFYING FORM; REQUIRING THE ATTACHMENT OF THE FORM TO CERTAIN DOCUMENTS; REQUIRING THE PREPARATION OF ANNUAL FINANCIAL REPORT; SPECIFYING STANDARDS FOR SUCH REPORT; PROVIDING FOR ACCOUNTING AND RECORDKEEPING STANDARDS; REQUIRING THE STATE AUDITOR AND INSPECTOR TO PROVIDE FOR ANNUAL AUDITS OF CERTAIN FINANCIAL REPORTS; REQUIRING THE STATE TREASURER TO PROVIDE FINANCIAL STATEMENTS TO THE STATE AUDITOR AND INSPECTOR; PROVIDING FOR THE DISTRIBUTION OF CERTAIN FINANCIAL REPORTS; PRIORITIZING CERTAIN AUDITS; AUTHORIZING CERTAIN UNANNOUNCED AUDITS; PROVIDING FOR COSTS OF REQUIRING THE STATE TREASURER TO DEVELOP AND IMPLEMENT CERTAIN PROCEDURES FOR SUCH AUDITS; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 1981, Section 71, as last amended by Section 2, Chapter 168, O.S.L. 1990 (62 O.S. Supp. 1990, Section 71), is amended to read as follows:

Section 71. A. The State Treasurer is authorized and directed to select a number of banks, savings banks or savings and loan associations and credit unions within the State of Oklahoma as depositories for all monies and funds coming into the hands of the State Treasurer as the official depository. Such banks, savings banks or savings and loan associations and credit unions shall be in good standing and conducting a regular banking business and shall collect such drafts, bills of exchange, and checks as may be deposited by the state in the regular course of business, and shall pay all checks and drafts legally authorized and duly drawn on the funds deposited in such banks, savings banks or savings and loan associations and credit unions.

B. At the request of state agencies or state institutions conducting operations or transacting state business outside the State of Oklahoma, the State Treasurer is hereby authorized to name and designate financial institutions located without the State of Oklahoma as official depositories of state monies and funds where it is shown to the satisfaction of the State Treasurer that the need for such out-of-state depository is required for the orderly and expeditious deposit of monies and funds coming into the possession of the requesting state agency or state institution. For purposes of this section, the State Treasurer shall not designate any financial institution outside the United States for the deposit of public funds, monies, securities, or any other financial assets subject to the control of the State Treasurer. Any out-of-state financial institution designated as an official depository of the

State Treasurer shall have a service agent in the State of Oklahoma so that service of summons or legal notice may be had on such designated agent as is now or may hereafter be provided by law. Before designating any financial institution outside the State of Oklahoma as an official depository, the State Treasurer shall, if he deems it necessary, require a bond to be given by such financial institution to the State of Oklahoma in double the amount of monies which said requesting state agency or institution anticipates will be the maximum amount of money or funds on deposit at any one time with said financial institution. Such bond will be approved by the State Treasurer and filed with the Secretary of State. Any out-of-state financial institution designated as an official depository shall in all respects conform to and comply with the provisions of this section, the Security for Public Deposits Act, and any and all laws pertaining to financial institutions receiving deposits of public monies or funds.

C. The State Treasurer shall promulgate rules and regulations providing procedures and minimum standards for establishing and maintaining relationships between state entities and financial institutions. The State Treasurer is authorized to prescribe formats and issue all state vouchers, warrants and checks drawn on state treasury funds. The State Treasurer may compensate financial institutions for services rendered to the state by direct fee charges or through compensating balances. Any financial institution receiving payment for services from the state through compensating balances shall file a report quarterly with the State Treasurer detailing the services rendered to the state and the charges for such services. Said charges shall not exceed those made for similar services to other customers of the financial institution. If the quarterly value of said compensating balance arrangement is above or below the quarterly charges for the services rendered to the state had service charges been separately billed, the difference in amount

of the quarterly charges for the services rendered and the amount of the compensating balance shall be applied to the subsequent quarter. Any compensation arrangements made with financial institutions pursuant to this subsection shall not be subject to the provisions of the Oklahoma Central Purchasing Act.

D. Of the public funds in the hands of the State Treasurer, there shall not be deposited in any one of such banks, savings banks or savings and loan associations and credit unions an amount to exceed the combined amount of insured deposits plus approved legal securities pledged by such banks, savings banks or savings and loan associations and credit unions therefor. Such banks, savings banks or savings and loan associations and credit unions shall make quarterly reports of the amount deposited, checked out, or withdrawn and the balances on hand for the fiscal year.

E. On and after July 1, 1987, no public funds or monies subject to the control of the State Treasurer shall remain deposited in any bank or financial institution which directly or through its subsidiaries has outstanding loans to the Republic of South Africa or its instrumentalities. The State Treasurer shall prescribe forms concerning South African loans to be completed by each bank and financial institution in which state funds or monies subject to the control of the State Treasurer are deposited pursuant to this section.

F. All provisions of this title relating to depositories for public funds shall include, in addition to banks, all financial institutions of this state. As used in this subsection, "financial institutions" means banks, savings banks, savings and loan associations and credit unions in this state whose deposits are insured by the Federal Deposit Insurance Corporation, ~~the Federal Savings and Loan Insurance Corporation~~ or the National Credit Union Administration or any successor institutions.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 71.1 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Cash Management and Investment Oversight Commission. The Commission shall consist of five (5) members as follows:

1. The Director of State Finance, or designee;

2. The Bank Commissioner, or designee;

3. One citizen member appointed by the Speaker of the House of Representatives who shall have a demonstrated expertise in public or private investment finance and who shall serve at the Speaker's pleasure;

4. One citizen member appointed by the President Pro Tempore of the State Senate who shall be a certified public accountant or public accountant with a demonstrated expertise in public or private auditing procedures and who shall serve at the President Pro Tempore's pleasure; and

5. One citizen member appointed by the State Treasurer who shall have a demonstrated expertise in public or private investment funds management and who shall serve at the State Treasurer's pleasure.

B. The appointed members shall have no direct or indirect business relationship with the State Treasurer or the State Treasurer's Office.

C. The initial meeting shall be called by the Governor before July 1, 1991. The Commission shall elect from its membership a chairperson and vice-chairperson. Such officers shall serve one-year terms and may be reelected.

D. The Commission shall hold regular meetings at least one each quarter, the date, time and place to be set by the Commission. The Office of State Finance shall provide the administrative support required by the Commission. Meetings of the Commission shall be

subject to the Open Meeting Act, and its records shall be public records pursuant to the Open Records Act.

E. The Commission shall review the reports prepared by the State Treasurer pursuant to Section 89.7 of this title and Section 7 of this act. The Commission shall review with the State Treasurer investment strategies and practices and the development of internal auditing procedures and practices.

F. Members of the Commission shall serve without compensation, except for travel, pursuant to the State Travel Reimbursement Act, to be paid by the appointing authority.

G. The Commission may make written recommendations for changes in legislation to the Legislature or in the policies or procedures and practices of the State Treasurer to the State Treasurer.

SECTION 3. AMENDATORY Section 8, Chapter 194, O.S.L. 1987 (62 O.S. Supp. 1990, Section 72.4), is amended to read as follows:

Section 72.4 A. The State Treasurer shall require that financial institutions deposit collateral securities to secure the deposits of the state in each such institution. The amount of collateral securities to be pledged for the security of public deposits shall be established by rules and regulations promulgated by the State Treasurer consistent with the provisions of the Security for Public Deposits Act; provided, such amount shall not be less than the amount of the deposit to be secured, less the amount insured.

B. Upon authorization by the State Treasurer, a financial institution shall place required collateral securities in a restricted account at a Federal Reserve Bank which serves Oklahoma, a Federal Home Loan Bank which serves Oklahoma or with another financial institution located in this state that is not owned or controlled by the same institution or holding company. The depositor shall deliver to the State Treasurer a power of attorney

authorizing the State Treasurer to transfer or liquidate the securities in the event of a default, financial failure or insolvency of a public depository.

C. Securities eligible for collateral shall be valued at market value. The State Treasurer shall review and determine the market value of collateral pledged for security not less than quarterly. The State Treasurer shall adopt rules and regulations to provide for the valuation of collateral if the market value is not readily determinable. The State Treasurer shall prescribe forms for financial institutions to list collateral securities pursuant to this section.

D. All securities purchased by the State Treasurer or held in custody for other state agencies by the State Treasurer shall be held in financial institutions as defined in Section 71 of this title not involved in such transactions and shall not be held by the State Treasurer or a broker.

SECTION 4. AMENDATORY 62 O.S. 1981, Section 89.2, as last amended by Section 3, Chapter 194, O.S.L. 1987 (62 O.S. Supp. 1990, Section 89.2), is amended to read as follows:

Section 89.2 A. The State Treasurer is directed to invest the maximum amount of funds under his control consistent with good business practices; provided that the Treasurer shall keep eighty percent (80%) or more of the money under his control invested during each fiscal year based on the average daily balances during said fiscal year. Except as otherwise provided for by law, such investments shall earn not less than the rate for comparable maturities on United States Treasury obligations. Except as otherwise provided for by law, the State Treasurer may purchase and invest only in:

1. Obligations of the United States Government, its agencies and instrumentalities;

2. Collateralized or insured certificates of deposit and other evidences of deposit at banks, savings banks, savings and loan associations and credit unions located in this state;

3. Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings bank, a savings and loan association or a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed ten percent (10%) of the ~~surplus funds of the state~~ cash available for investment which may be invested pursuant to this section. Not more than one-half (1/2) of the ten percent (10%) limit shall be invested in any one financial institution specified in this paragraph;

4. Prime banker's acceptances which are eligible for purchase by the Federal Reserve System and which do not exceed two hundred seventy (270) days' maturity. Purchases of prime banker's acceptances shall not exceed ten percent (10%) of the ~~surplus funds of the state~~ cash available for investment which may be invested pursuant to this section. Not more than three-fourths (3/4) of the ten percent (10%) limit shall be invested in any one commercial bank pursuant to this paragraph;

5. Prime commercial paper which shall not have a maturity that exceeds one hundred eighty (180) days nor represent more than ten percent (10%) of the outstanding paper of an issuing corporation. Purchases of prime commercial paper shall not exceed seven and one-half percent (7 1/2%) of the ~~surplus funds of the state~~ cash available for investment which may be invested pursuant to this section;

6. Investment grade obligations of state and local governments. Purchases of investment grade obligations of state and local governments shall not exceed ten percent (10%) of the ~~surplus funds of the state~~ cash available for investment which may be invested pursuant to this section; and

7. Repurchase agreements provided that such agreements are included within the written investment policy required by subsection C of this section that have underlying collateral consisting of those items and those restrictions specified in paragraphs 1 through 6 of this subsection.

B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

C. Investments of public funds by the State Treasurer shall be made in accordance with written policies developed by the State Treasurer. The written investment policies shall address liquidity, diversification, safety of principal, yield, maturity and quality and capability of investment management, with primary emphasis on safety and liquidity. To the extent practicable taking into account the need to use sound investment judgment, the written investment policies shall include provision for utilization of a system of competitive bidding in the investment of state funds. Such system shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested.

The investment policy shall specify the general philosophy, policies and procedures to be followed in the investment of state monies by the State Treasurer. The investment policy shall include, but not be limited to, the following:

1. Policy objectives;
2. Performance measure objectives;
3. Authority for investment program;
4. Possible use of an investment advisory committee;
5. Reporting and documentation of investments;
6. Authorized investment instruments;

7. Diversification of investment risk;
8. Maturity limitations;
9. Selections of financial institutions;
10. Interest controls;
11. Safekeeping of investments;
12. Investment ethics; and
13. Formal adoption of policy.

D. Not later than September 1, 1987 and July 1 of each year thereafter, the State Treasurer shall forward a copy of the written investment policy to the Governor, the Speaker of the House of Representatives ~~and~~, the President Pro Tempore of the Senate, the Attorney General, the Bank Commissioner, and the Director of State Finance. In addition, the State Treasurer shall maintain one copy of the investment policy in the office of the State Treasurer for public inspection during regular business hours. Copies of any modifications to the investment policy shall be forwarded to the Governor, Speaker of the House of Representatives ~~and~~, President Pro Tempore of the Senate, and each member of the Cash Management and Investment Oversight Commission.

E. On and after July 1, 1987, no public funds or monies subject to the control of the State Treasurer shall remain invested in any bank or financial institution which directly or through its subsidiaries has outstanding loans to the Republic of South Africa or its instrumentalities. The State Treasurer shall prescribe forms concerning South African loans to be completed by each bank and financial institution in which state funds or monies subject to the control of the State Treasurer are invested pursuant to this section.

SECTION 5. AMENDATORY Section 13, Chapter 194, O.S.L. 1987 (62 O.S. Supp. 1990, Section 89.7), is amended to read as follows:

Section 89.7 A. The State Treasurer shall prepare a quarterly ~~report~~ and annual investment performance reports of the State Treasurer's Office which ~~summarizes~~ summarize recent market conditions, economic developments and anticipated investment conditions and the investment plan performance, including portfolio diversification and rates of return measured against the investment plan of the State Treasury. The investment performance reports shall be made within thirty (30) calendar days after the end of the respective reporting period. The ~~report~~ investment performance reports shall specify the investment strategies employed in the most recent ~~quarter~~ reporting period and describe the investment portfolio of the state in terms of:

1. Securities;
2. Maturities;
3. Fund type;
4. Financial institutions from which securities were purchased, including the amounts and the city and state of location;
5. Investment return compared to budgetary expectations;
6. Average yield; and
7. Average life of the portfolio.

The ~~report~~ investment performance reports shall also indicate any areas of concern which the State Treasurer has concerning the basic investment strategies being employed. The investment performance reports shall contain:

- a. combined and individual rates of return and a list of all losses by category of investment, over periods of time;
- b. the rate of return on deposits and all fees and expenses charged as to all depository financial institutions of the State Treasury including, but not limited to, a specific review of the adequacy of the collateralization;

- c. any other information that the State Treasurer may include; and
- d. such other information that the Cash Management and Investment Oversight Commission created by Section 2 of this act may request and that the State Treasurer agrees to include in the investment performance reports.

B. To the extent that the State Treasurer should have reason to know, the State Treasurer shall also include in the investment performance reports a listing of all payments, fees, commissions, or other compensation received by any person, including but not limited to individuals, financial institutions, or investment companies or corporations, which have an investment agreement, contract, or other arrangement with the State Treasurer, or who receive any compensation as a result of a transaction involving the investment of state monies or funds or the purchase, sale, or trade of securities or bonds involving the Office of the State Treasurer. Said listings shall also include the social security or federal identification number of any person, including but not limited to individuals, financial institutions, or investment companies or corporations, receiving payments, fees, commissions, or other compensation.

C. The annual investment performance report shall be written in simple and easily understood language containing:

- a. an analysis of the written investment plans developed by the Treasurer as required by law;
- b. a qualitative and quantitative analysis of the performance of all depository financial institutions approved by the State Treasurer with regard to monies deposited;

- c. the result of the analyses prepared pursuant to subparagraphs a and b of this paragraph compared with similar data for other states;
- d. recommendations on administrative and legislative changes which are necessary to improve the performance of the State Treasury in accordance with current standards for large public fund portfolio management;  
and
- e. a listing by object code of the expenses of the State Treasury as audited by the independent auditor provided by Section 7 of this act.

D. The State Treasurer shall distribute the investment performance reports to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the State Auditor and Inspector, the Attorney General, and members of the Cash Management and Investment Oversight Commission. Upon request, the State Treasurer shall make the annual investment performance report available to the members of the Legislature and the general public. The annual investment performance report shall also include an investment plan for the ensuing fiscal year.

~~B. The State Treasurer shall forward a copy of the quarterly report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.~~

~~C. The information contained in the quarterly report as required in subsection A of this section shall be compiled into an annual fiscal year report. In addition to said information, the annual fiscal year report of the State Treasurer shall contain suggestions concerning policies and improvements that might enhance the investment program. The report also shall include an investment plan for the ensuing fiscal year.~~

~~D. E. The State Treasurer shall submit a copy of the annual fiscal year report to the Governor, the Speaker of the House of~~

~~Representatives and the President Pro Tempore of the Senate~~ require all employees in the State Treasury to sign an anti-collusion affidavit.

F. The State Treasurer shall require an anti-collusion affidavit from brokers or other persons offering investment services to the State Treasury. The State Treasurer shall be prohibited from employing or doing business with any brokers or persons offering investment services to the State Treasury who have not executed such an affidavit.

G. The Cash Management and Investment Oversight Commission shall certify that the State Treasurer delivers to the Commission the quarterly and annual investment performance reports required by Section 89.7 of this title and the annual financial report required by this section. If the Commission determines that these reports are not delivered by the State Treasurer as required by law, the Commission shall notify in writing the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Attorney General, and the State Auditor and Inspector.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 89.9 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General shall prescribe and provide forms to the Office of the State Treasurer for sworn statements and affidavits regarding collusion activities. Such sworn statement form shall be similar to the sworn statement forms provided for in Sections 85.22 and 85.23 of Title 74 of the Oklahoma Statutes. All concerns, including but not limited to financial institutions and investment companies, entering into an agreement or contract awarded by the Office of the State Treasurer shall have on file with the Office of the State Treasurer a current sworn statement.

B. The Attorney General shall prescribe and provide forms to the Office of the State Treasurer for sworn statements and

affidavits regarding employee nepotism. Such sworn statement and affidavit shall state that the Office of the State Treasurer employee is not related by affinity or consanguinity within the third degree to any person offering investment services to the Office of the State Treasurer. The statement and affidavit shall be signed by each employee of the Office of the State Treasurer employed prior to the effective date of this act and by any new employee of the Office of the State Treasurer hired after the effective date of this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 89.10 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The State Treasurer shall prepare an annual financial report. Said report shall be prepared substantially in accordance with the reporting requirements set forth by the Governmental Accounting Standards Board or any successor entity. The State Treasurer shall prescribe and implement sound accounting and recordkeeping practices consistent with and to facilitate compliance with all reporting requirements as set forth by law.

B. The annual financial report of the State Treasurer shall be delivered by the State Treasurer to the State Auditor and Inspector within sixty (60) calendar days after the close of the state fiscal year.

C. The State Auditor and Inspector shall perform an audit of the annual financial report of the State Treasury as of and for each state fiscal year. Such audit shall be conducted in accordance with Generally Accepted Auditing Standards established by the American Institute of Certified Public Accountants or its successor and governmental auditing standards established by the Comptroller General of the United States. The State Auditor and Inspector shall complete said audit not later than ninety (90) calendar days after the State Treasurer delivers the financial report to the State

Auditor and Inspector. The annual audit report and related financial statements shall be delivered by the State Auditor and Inspector to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, the Attorney General and the members of the Cash Management and Investment Oversight Commission created by Section 2 of this act. The annual audits of the State Treasury shall be given a top priority by the State Auditor and Inspector who may contract for the audit. The State Auditor and Inspector shall conduct unannounced cash audits of the State Treasury at least once a quarter.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 89.11 of Title 62, unless there is created a duplication in numbering, reads as follows:

The State Treasurer shall develop and implement a system of procedures to record and audit all electronic investment bidding transactions with outside financial concerns.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 12th day of March, 1991.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1991.

President of the Senate