

ENROLLED SENATE
BILL NO. 647

By: Mickle of the Senate

and

Askins of the House

An Act relating to the State Treasurer; amending 60 O.S. 1991, Section 668, as amended by Section 14 of Enrolled Senate Bill No. 659 of the 1st Session of the 47th Oklahoma Legislature, which relates to the Unclaimed Property Fund; specifying allowable uses of deductions allowed to be taken before deposit made to fund; amending 62 O.S. 1991, Sections 7.5a, as amended by Section 2, Chapter 164, O.S.L. 1997, 71, as last amended by Section 7, Chapter 85, O.S.L. 1998, 72.3 and 89.2, as last amended by Section 1, Chapter 65, O.S.L. 1995 (62 O.S. Supp. 1998, Sections 7.5a, 71 and 89.2), which relate to public finance; allowing State Treasurer to waive certain counter signature requirement under certain circumstances; allowing state agency to pay financial institution directly for certain services performed; granting State Treasurer authority to permit local governmental entity treasurers to make certain placement of public funds; modifying reference; modifying investment authority of State Treasurer; amending 70 O.S. 1991, Section 10-104, which relates to schools; modifying entities with which State Board of Education required to file certain report; repealing 62 O.S. 1991, Sections 521, 522, 523, 524, as amended by Section 1, Chapter 400, O.S.L. 1998, 525, 526, 527 and 528 (62 O.S. Supp. 1998, Section 524), which relate to designation of fiscal agencies; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 60 O.S. 1991, Section 668, as amended by Section 14 of Enrolled Senate Bill No. 659 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 668. A. There is hereby created in the State Treasury the "Unclaimed Property Fund", the principal of which shall constitute a trust fund for persons claiming any interest in any property delivered to the state under the Uniform Unclaimed Property Act and may be invested as hereinafter provided and shall not be

expended except as provided in the Uniform Unclaimed Property Act. All funds received under the Uniform Unclaimed Property Act, including the proceeds from the sale of abandoned property under Section 667 of this title, shall forthwith be deposited by the State Treasurer in the Unclaimed Property Fund, herein created, except that the State Treasurer may before making any deposit to the fund deduct:

1. All costs in connection with the sale of abandoned property;
2. All costs of mailing and publication in connection with any abandoned property;
3. Reasonable service charges not to exceed one percent (1%) of the monies accruing to the state under the Uniform Unclaimed Property Act, which may be used to defray the administrative costs of the unclaimed property program or to acquire computer hardware and software to be used exclusively to help administer the unclaimed property program; and
4. An amount equal to fifteen percent (15%) of the funds accruing to the state pursuant to a contract with the State Treasurer providing information leading to the delivery of unclaimed property held by an out-of-state holder to the State Treasurer, which shall be deposited in the Unclaimed Property Clearinghouse Fund.

B. Before making a deposit to the Unclaimed Property Fund, the State Treasurer shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

SECTION 2. AMENDATORY 62 O.S. 1991, Section 7.5a, as amended by Section 2, Chapter 164, O.S.L. 1997 (62 O.S. Supp. 1998, Section 7.5a), is amended to read as follows:

Section 7.5a The State Treasurer shall prescribe the forms and manner of issuance of vouchers against agency clearing accounts and agency special accounts in the State Treasury. All vouchers drawn against agency clearing accounts and agency special accounts shall be signed by an authorized person designated by the administrative authority of the agency and countersigned by the principal fiscal officer of the agency or another person specifically designated by the administrative authority. No Provided, the State Treasurer may waive the counter signature requirement if an agency certifies that controls are in place and will be followed to prevent the unauthorized issuance of its vouchers and if the vouchers are generated and signed by automated processes. Unless such waiver is granted, no voucher shall be paid by the State Treasurer without such signature and countersignature, if required.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 71, as last amended by Section 7, Chapter 85, O.S.L. 1998 (62 O.S. Supp. 1998, 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 the State Treasurer 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~~ the requesting state agency or institution anticipates will be the maximum amount of money or funds on deposit at any one time with ~~said~~ the 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 establish procedures which provide minimum standards for establishing and maintaining relationships between state entities and financial institutions. As used in this subsection, "financial institutions" means those institutions described in subsection E of this section, credit card processing companies and other companies which handle or process financial transactions. If the State Treasurer has an agreement with a financial institution to provide services to the State Treasurer, a state agency may pay the institution directly for services performed

for the agency under the same terms, if the services are services not previously provided to the agency through the State Treasurer. State agencies may enter into agreements with the State Treasurer to participate in any credit card processing agreements entered into by the State Treasurer. Any state agency participating in such an agreement may pay the credit card vendor directly for any fees owed on transactions associated with that agency. 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~~ Such charges shall not exceed those made for similar services to other customers of the financial institution. If the quarterly value of ~~said~~ the 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. 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, the term "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 National Credit Union Administration or any successor institutions.

F. The State Treasurer may permit treasurers of local governmental entities to place public funds under their control into investments used by the State Treasurer for state funds, if the local treasurer has appropriate investment authority.

SECTION 4. AMENDATORY 62 O.S. 1991, Section 72.3, is amended to read as follows:

Section 72.3 All public deposits made by the State Treasurer in financial institutions shall be secured as provided for in the Security for Public Deposits Act. As used in this section, "public deposits" shall not include those types of investments specified in

paragraphs 1, 3, 4, 5, 6 ~~and~~, 7 and 8 of subsection A of Section 89.2 of ~~Title 62 of the Oklahoma Statutes~~ this title.

SECTION 5. AMENDATORY 62 O.S. 1991, Section 89.2, as last amended by Section 1, Chapter 65, O.S.L. 1995 (62 O.S. Supp. 1998, 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 or her control consistent with good business practices; provided that the Treasurer shall keep eighty percent (80%) or more of the money under his or her control invested during each fiscal year based on the average daily balances during ~~said~~ the 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 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 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 cash available for investment which may be invested pursuant to this section;

6. Investment grade obligations of state and local governments, including obligations of Oklahoma state public trusts which possess the highest rating from at least one nationally recognized rating agency acceptable to the State Treasurer. Purchases of investment grade obligations of state and local governments shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section;

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

8. Money market funds regulated by the Securities and Exchange Commission and which investments consist of those items and those restrictions specified in paragraphs 1 through 7 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. The State Treasurer shall appoint an investment officer who shall perform duties related to the investment of state funds in the Office of the State Treasurer. The investment officer shall not perform duties unrelated to the investment of state funds. The investment officer shall not perform or supervise any accounting functions, data processing functions or duties related to the documentation or settlement of investment transactions.

D. 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:

1. Liquidity;
2. Diversification;
3. Safety of principal;
4. Yield;
5. Maturity and quality; and
6. Capability of investment management.

The State Treasurer shall place primary emphasis on safety and liquidity in the investment of public funds. 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.

E. The State Treasurer shall select one custodial bank to settle transactions involving the investment of state funds under the control of the State Treasurer. The State Treasurer shall review the performance of the custodial bank at least once every year. The State Treasurer shall require a written competitive bid every three (3) years. The custodial bank shall have a minimum of Five Hundred Million Dollars (\$500,000,000.00) in assets to be

eligible for selection. Any out-of-state custodial bank 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. In order to be eligible for selection, the custodial bank shall allow electronic access to all transaction and portfolio reports maintained by the custodial bank involving the investment of state funds under control of the State Treasurer. Such access shall be given to both the State Treasurer and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the State Treasurer and the custodial bank. Neither the State Treasurer nor the custodial bank shall permit any of the funds under the control of the State Treasurer or any of the documents, instruments, securities or other evidence of a right to be paid money to be located in any place other than within a jurisdiction or territory under the control or regulatory power of the United States Government.

F. 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.

G. The State Treasurer shall provide weekly reports of all investments made by the State Treasurer for that week to the Executive Review Committee of the Cash Management and Investment Oversight Commission, and list any commissions, fees or payments made for services regarding such investments. The reports required by this subsection shall be delivered to the Committee within three (3) business days of the end of the applicable week, and the Committee shall communicate any facts or information it deems

appropriate to the Cash Management and Investment Oversight Commission and shall also prepare all reports necessary for the quarterly meeting of the Commission.

H. Not later than July 1 of each year, the State Treasurer shall forward a copy of the written investment policy to the Governor, the Speaker of the House of Representatives, 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, President Pro Tempore of the Senate, and each member of the Cash Management and Investment Oversight Commission.

SECTION 6. AMENDATORY 70 O.S. 1991, Section 10-104, is amended to read as follows:

Section 10-104. The State Board of Education shall file with the ~~State Treasurer and~~ Secretary of the School Land ~~Department Commission~~ a report, duly certified, showing the school population for the preceding school year of each school district. School population shall be determined as provided for in Section ~~56~~ 10-103.1 of this ~~act~~ title. The report so filed shall be the basis for making the apportionments of state school land earnings during the following fiscal year.

SECTION 7. REPEALER 62 O.S. 1991, Sections 521, 522, 523, 524, as amended by Section 1, Chapter 400, O.S.L. 1998, 525, 526, 527 and 528 (62 O.S. Supp. 1998, Section 524), are hereby repealed.

SECTION 8. This act shall become effective July 1, 1999.

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 Senate the 19th day of May, 1999.

President of the Senate

Passed the House of Representatives the 20th day of May, 1999.

Speaker of the House of
Representatives