

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 37

By: Herbert

AS INTRODUCED

An Act relating to public lands; amending 64 O.S. 1991, Section 51, as last amended by Section 3, Chapter 212, O.S.L. 1995 (64 O.S. Supp. 1998, Section 51), which relates to investment of school funds; removing restrictions on investment of certain funds; removing requirement for certain Attorney General opinion; removing obsolete language; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 64 O.S. 1991, Section 51, as last amended by Section 3, Chapter 212, O.S.L. 1995 (64 O.S. Supp. 1998, Section 51), is amended to read as follows:

Section 51. A. 1. The permanent school funds and other educational funds may be invested in first mortgages upon good and improved farm lands within the state (and in no case shall more than fifty percent (50%) of the reasonable value of the lands, without improvements, be loaned upon any tract).

2. Said funds may also be invested in ~~Oklahoma state bonds, county bonds of the counties of this state, United States bonds, and bonds issued pursuant to the Oklahoma Student Loan Act~~ other instruments allowed by law.

3. ~~The said funds may also be invested in deposits in trust companies or financial institutions situated in Oklahoma to the extent such deposits are insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLIC), or the National Credit Union Administration (NCUA).~~

4. ~~Provided, that sufficient~~ Sufficient monies shall be kept on hand at all times by the Commissioners of the Land Office to close

all approved applications for first mortgage loans, as may be approved from time to time by the Commissioners of the Land Office, ~~provided, further, that no bond investment shall be made until the Attorney General of the State of Oklahoma gives his opinion in writing that such proposed investment is within the legal authority of the Commissioners of the Land Office, and that such bonds as the Commission may propose to purchase are valid. The passage by the people of House Joint Resolution No. 1028 of the 2nd Session of the 44th Oklahoma Legislature, a constitutional amendment implementing subsection B of this section, shall not invalidate this section.~~

B. 1. ~~This subsection shall become effective upon passage by the people of House Joint Resolution No. 1028 of the 2nd Session of the 44th Oklahoma Legislature, a constitutional amendment implementing the provisions of this subsection.~~

~~2.~~ The Commissioners of the Land Office shall be responsible for the investment of the permanent school funds, other educational funds and public building funds solely in the best interests of the beneficiaries. The Commissioners of the Land Office shall make such investments:

a. for the exclusive purpose of:

(1) providing maximum benefits to current and future beneficiaries, and

(2) defraying reasonable expenses of administering the trust funds,

b. with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like enterprise of a like character and with like aims would use, and

c. by diversifying the investments of the trust funds so as to minimize the risk of large losses.

~~3. No investment of the permanent common school and other educational funds shall be made in indebtedness or currency of any~~

~~foreign country or in securities issued by any corporation which is domiciled outside of the United States of America. The permanent common school funds, other educational funds and public building funds may be invested in securities including but not limited to stocks and other equities issued by corporations domiciled in the United States which have investment grade ratings as determined by at least one of the major rating agencies. The Commissioners of the Land Office shall not invest more than forty percent (40%) of the permanent common school fund, other educational funds and public building funds in such securities.~~

~~4.~~ 2. The Commissioners shall establish an investment committee. The investment committee shall be composed of not more than three (3) members of the Commissioners of the Land Office or their designee. The committee shall make recommendations to the Commissioners of the Land Office on all matters related to the choice of managers of the assets of the funds, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Commissioners of the Land Office in any circumstances whatsoever. No recommendations of the committee shall have effect as an action of the Commissioners of the Land Office ~~nor~~ or take effect without the approval of the Commissioners as provided by law. The Commissioners shall promulgate and adopt on an annual basis an investment plan. The investment plan shall state the criteria for selecting investment managers, the allocation of assets among investment managers, and established standards of investment and fund management.

~~5.~~ 3. The Commissioners shall retain qualified investment managers to provide for investment of the fund monies pursuant to the investment plan. Investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Commissioners. Subject to the investment plan,

each investment manager shall have full discretion in the management of the funds allocated to said investment managers. The funds allocated to investment managers shall be actively managed by them, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

~~6.~~ 4. The Commissioners shall take such measures as they deem appropriate to safeguard custody of securities and other assets of the Trusts.

~~7.~~ 5. By ~~October 1, 1995, and~~ August 1 of each year ~~thereafter~~, the Commissioners shall develop a written investment plan for the trust funds.

~~8.~~ 6. The Commissioners shall compile a quarterly financial report showing the performance of all the combined funds under their control on a fiscal year basis. The report shall contain a list of all investments made by the Commissioners and a list of any commissions, fees or payments made for services regarding such investments for that reporting period. The report shall be based on market values and shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be distributed to the Oklahoma State Pension Commission, the Cash Management and Investment Oversight Commission, and the Legislative Service Bureau.

~~9.~~ 7. Before October 1 of each year, the Commissioners shall publish an annual report of all Trust operations, presented in a simple and easily understood manner to the extent possible. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the State Department of Education and each higher education beneficiary. The annual report shall cover the operation of the Trusts during the

past fiscal year, including income, disbursements and the financial condition of the Trusts at the end of each fiscal year on a cash basis. The annual report shall also contain a summary of each Trust's assets and current market value as of the report date.

~~10.~~ 8. The Cash Management and Investment Oversight Commission shall review reports prepared by the Commissioners of the Land Office pursuant to this subsection and shall make such recommendations regarding the investment strategies and practices, the development of internal auditing procedures and practices and such other matters as determined necessary and applicable.

~~11.~~ 9. The Commissioners of the Land Office shall select one custodial bank to settle transactions involving the investment of the funds under the control of the Commissioners of the Land Office. The Commissioners of the Land Office shall review the performance of the custodial bank at least once every year. The Commissioners of the Land Office 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 Commissioners of the Land Office and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the Commissioners of the Land Office and the custodial bank. Neither the Commissioners of the Land Office nor the custodial bank shall permit any of the funds under the control of the Commissioners of the Land Office 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.

SECTION 2. This act shall become effective July 1, 1999.

SECTION 3. 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.

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