

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 934

By: Herbert of the Senate

and

Glover of the House

COMMITTEE SUBSTITUTE

[public lands - permanent school fund investments -
publication of notice requirements - codification -
effective date -
emergency]

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

SECTION 1. AMENDATORY 62 O.S. 2001, Section 194, is amended to read as follows:

Section 194. A. There is hereby created in the State Treasury a revolving fund for the Office of the State Treasurer to be designated the "State Land Reimbursement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. Monies apportioned to the fund shall be expended as payments to any county of this state which has state-owned land within the county, that if the land were in private ownership would be classified as agricultural land and on which no state agency is making an in lieu of ad valorem payment. Provided, no land shall be eligible for reimbursement under the provisions of this section which receives reimbursement for in lieu of tax payments under the provisions of Section 4-132 of Title 29 of the Oklahoma Statutes.

B. Each county shall receive a portion of the fund equal to the percentage of the eligible state-owned land in each county as

determined from reports compiled by the county assessor of each county listing the location and number of acres of such property in each county. The reports shall be filed with the Office of the State Treasurer on or before December 31 of each year. Payments from the fund shall be made by the State Treasurer to the county treasurers not later than February 1 of each year. The county treasurer shall apportion the monies in the manner ad valorem taxes are apportioned in the county.

C. On or before December 31 of each year, the Commissioners of the Land Office shall transfer all available funds from the Public Building Fund to the State Treasurer for allocation to the State Land Reimbursement Fund.

SECTION 2. AMENDATORY 64 O.S. 2001, 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~~ In no case shall more than fifty percent (50%) of the reasonable value of the lands, without improvements, be loaned upon any tract~~).~~

2. 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.

B. 1. 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.

2. ~~The~~ Except as otherwise authorized by law, the permanent school fund and other educational funds may only be invested in bonds issued in the United States and United States dollar denominated or other investments settled in United States dollars or traded on the United States exchange markets. Until July 1, 2001, the Commissioners of the Land Office shall not invest more than fifty percent (50%) of the permanent common school fund, other educational funds and public building funds in equity securities. On and after July 1, 2001, the investment in equity securities may be increased by five percent (5%) each year until the investment in equity securities reaches a maximum of sixty percent (60%).

3. The Commissioners of the Land Office may invest the permanent school fund and other educational funds in timber and timberland and is authorized to buy, sell, harvest, and manage timber produced on land owned by the Commissioners of the Land Office.

~~3.~~ 4. 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 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.

~~4.~~ 5. 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.

~~5.~~ 6. The Commissioners shall take such measures as they deem appropriate to safeguard custody of securities and other assets of the Trusts.

~~6.~~ 7. By August 1 of each year, the Commissioners shall develop a written investment plan for the trust funds.

~~7.~~ 8. 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.

~~8.~~ 9. 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.

~~9.~~ 10. 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.

~~10.~~ 11. 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 five (5) 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 3. AMENDATORY 64 O.S. 2001, Section 92, is amended to read as follows:

Section 92. The Commissioners of the Land Office are hereby authorized to sell oil and gas or other mineral leases on any of the public lands under their control and supervision whether the same was acquired by federal grant, donation, foreclosure or otherwise. ~~Prior to every sale of oil and gas or other mineral lease covering such lands, the~~ The Commissioners of the Land Office shall ~~cause notice of such sale to be published for thirty (30) days in a newspaper of general circulation in the county where such lands are situated and in~~ publish notice of the lease sale one time not less than thirty (30) days prior to the lease sale date in two newspapers authorized by law to publish legal notices. One of the newspapers shall be published in the county where the land is located. The other shall be a newspaper of general circulation in ~~the State of Oklahoma~~ this state. The leasing shall require and the

advertisement shall specify in each case a fixed royalty to be paid by the successful bidder, in addition to any bonus offered for the lease, and all proceeds from leases shall be covered into the fund to which that shall properly belong, and no transfer or assignment of any lease shall be valid or confer any right in the assignee without the consent of the Commissioners of the Land Office in writing; provided, however, that agricultural lessees in possession of such lands shall be reimbursed by the mining lessees for all damage done to said agricultural lessees' interest therein by reason of such mining operations. The Commissioners of the Land Office have the right to reject any and all bids for such leases.

SECTION 4. AMENDATORY 64 O.S. 2001, Section 281, is amended to read as follows:

Section 281. The Commissioners of the Land Office are authorized to lease for oil and gas purposes any of the school or other lands owned by the State of Oklahoma, which such Commissioners may deem valuable for oil and gas. Each such lease shall be a commence-type lease and shall provide for a term not less than one (1) and not to exceed five (5) years and as long thereafter as oil or gas may be produced therefrom in paying quantities, upon such terms and conditions and in such quantities as the Commissioners shall by rules and regulations prescribe. Each such lease shall provide for the delivery to the state of a royalty of not less than one-eighth (1/8) part of the oil or gas produced from the leased premises or in lieu thereof the payment to the state of the market value of said royalty interest, as the Commissioners may elect. The leases shall be offered by public competition after notice of the lease sale published one time not less than thirty (30) days prior to the lease sale date in two newspapers authorized by law to publish legal notices. One of the newspapers shall be published in the county where the land is located. The other shall be a newspaper of general circulation in this state. Such leasing shall

~~be made public competition after not less than fifteen (15) days' notice by publication in two (2) newspapers authorized by law to publish legal notices, one (1) of which newspapers shall be published at the State Capital, and the other in the county where the land is situated, such leasing~~ shall be let by sealed bids and each lease awarded to the highest responsible bidder, such oil and gas leases may be assigned only with the consent and approval of the Commissioners of the Land Office: Provided, that the Commissioners have the right to reject any and all bids.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16 of Title 64, unless there is created a duplication in numbering, reads as follows:

The Commissioners of the Land Office shall be responsible for and pay the fee for obtaining a real estate appraisers license for any employee who is required to obtain such license to perform required job duties.

SECTION 6. This act shall become effective July 1, 2002.

SECTION 7. 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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