

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1450

By: Hobson

AS INTRODUCED

An Act relating to the State Treasurer; amending 60 O.S. 2001, Section 668, which relates to the Uniform Unclaimed Property Act; modifying amounts which may be deducted prior to making deposits to Unclaimed Property Fund; amending 62 O.S. 2001, Sections 90, 261, 2305 and 2307, which relate to public finance; modifying fund into which certain monies deposited; creating Securities Lending and Custodial Fee Revolving Fund; providing for deposit thereto and expenditure therefrom; requiring certain monies to be deposited to General Revenue Fund; modifying procedures if certain instruments not presented for payment in certain time period; deleting certain duties of State Auditor and Inspector and certain banks with respect to such instruments; modifying procedure for examination of certain records; deleting certain provisions relating to liability of banks making certain payments; transferring certain duties from State Auditor and Inspector to State Treasurer; deleting certain duties of State Treasurer; modifying officers to be elected by Board of Investors of Tobacco Settlement Endowment Trust Fund; correcting statutory reference; repealing 60 O.S. 2001, Section 676, which relates to litigation of certain claims; 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. 2001, Section 668, 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 including the cost of custody services for unclaimed securities;

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. 2001, Section 90, is amended to read as follows:

Section 90. A. The State Treasurer may implement and engage in a securities lending program. As used in this section, "securities lending program" means any program, arrangement or agreement whereby the state deposits securities with a federally or state-chartered savings and loan association, a trust company, a state or national bank, or a broker-dealer registered with the National Association of Securities Dealers, Inc. and insured by the Securities Investors Protection Corporation, for the purpose of permitting the financial institution or broker-dealer to lend securities to a borrower approved by the State Treasurer in return for a fee or charge paid by the borrower for the use of such securities. All income from securities lending, less fees, shall ~~accrue to the credit of~~ be deposited into the General Revenue Fund Securities Lending and Custodial Fee Revolving Fund created in this section; provided, securities lending income in excess of amounts necessary to pay custodial or other banking fees, shall be deposited into the General Revenue Fund. Securities loaned under this program shall be subject to the collateral requirements specified by the State Treasurer. The State Treasurer must receive collateral equal to at least one hundred percent (100%) of the market value of the securities loaned, consisting of securities or instruments which the State Treasurer can purchase pursuant to Section 89.2 of this title. Nothing herein shall be deemed to prohibit the implementation of securities lending programs by the state retirement systems which are designed and managed by the boards of trustees of such systems.

B. There is hereby created in the State Treasury a revolving fund for the Office of the State Treasurer, to be designated "the Securities Lending and Custodial Fee Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by act of the Legislature and any monies which may be deposited thereto by the State Treasurer's Office as provided by this section. All monies

accruing to the credit of the Fund are hereby appropriated and may be budgeted and expended by the Office of the State Treasurer for the purposes of paying custodial or other banking fees.

Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 3. AMENDATORY 62 O.S. 2001, Section 261, is amended to read as follows:

Section 261. When any cashier's check or other exchange has been issued by any state or national bank in the State of Oklahoma, made payable to the State of Oklahoma or any agency thereof, and such cashier's check or other exchange has not been presented for payment and paid by the bank of issue within three (3) years from the date of issuance, claim of the state thereto is hereby asserted and the bank of issuance is hereby made the agent of the state, and pursuant to such agency, the state or national bank issuing the same or the successor thereof shall pay the amount of any such cashier's check or other exchange to the State Treasurer ~~of the State of Oklahoma who shall deposit the same to the credit of a special fund or account subject to the further provisions of this act~~ under the provisions of the Uniform Unclaimed Property Act using the same reports as required to report other forms of property.

~~The State Auditor and Inspector shall prepare necessary forms for the reporting of such outstanding cashier's checks and other exchange items, which forms shall be mailed to the said state and national banks on or before the first day of August of each year. The said banks shall complete said forms, under oath, as to all such unpaid items which had remained outstanding for three (3) full years on June 30th immediately preceding, and shall return said completed forms, with remittances indicated made payable to the State Treasurer of Oklahoma, to the State Auditor and Inspector on or before the first day of September of such year. Failure of any such~~

~~bank to comply with the foregoing provisions shall subject such delinquent bank to a penalty of Ten Dollars (\$10.00) for each and every day after September 15th of such year by reason of such delinquency, which penalty shall be levied as a tax for the benefit of the General Revenue Fund of the State and collected by warrant of the State Treasurer in the manner provided for warrant of the Oklahoma Tax Commission under the Uniform Tax Procedure Act but such warrant, including penalties, may not issue prior to January 1st next thereafter.~~

~~All In addition to examination by the Office of the State Treasurer pursuant to the provisions of Section 678 of Title 60 of the Oklahoma Statutes, all such banks shall permit the State Auditor and Inspector or ~~his~~ a duly authorized deputy access to their records to ascertain whether any such ~~cashiers~~ cashier's check or exchange has been issued and remains outstanding and unpaid.~~

~~The State of Oklahoma shall save harmless any such bank making payment under the provisions of this act to the State Treasurer if the original cashiers check or other exchange is later presented for payment and the same is paid, in the following manner: upon presentation to the State Auditor and Inspector of claim duly authenticated with full and satisfactory proof of redemption by payment of the original cashier's check, draft or other exchange, the State Treasurer shall draw his voucher or order payable to such bank, and the said State Treasurer shall pay the same out of any undistributed balance remaining to the credit of the special fund aforesaid.~~

~~To the extent discernable, the State Auditor and Inspector State Treasurer shall notify the state agency named in the remittance forms returned by the bank of the amount and of any other identifying data contained as to each item named; and upon presentation by such agency to the ~~State Auditor and Inspector~~ State Treasurer of claim duly authenticated and proof of right thereto the~~

State Treasurer shall draw ~~his~~ a voucher or order for the amount thereof found proper, to be paid to such agency ~~out of such special fund.~~

~~After May 15th and before June 15th next thereafter it shall be the duty of the State Treasurer to close such special account, other than a reserve for any pending claims as aforesaid, by distributing or paying into the permanent common school fund of the state all sums remaining that are identifiable as having been destined for the Commissioners of the Land Office but unclaimed by said Commission because its exact nature is not discernable, and the excess thereafter remaining in such special fund or accounts shall be distributed to and paid into the General Revenue Fund of the state.~~

SECTION 4. AMENDATORY 62 O.S. 2001, Section 2305, is amended to read as follows:

Section 2305. A. Section 40 of Article X of the Oklahoma Constitution created the Board of Investors of the Tobacco Settlement Endowment Trust Fund.

B. The members of the Board of Investors shall receive no salary for serving on the Board. All members shall receive necessary travel expenses for the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act.

C. The terms of the Board of Investors shall be staggered as provided by subsection A of Section 4 2304 of this ~~act~~ title.

D. The Board shall annually elect a ~~chair~~ vice-chair, who shall preside over meetings in the absence of the State Treasurer, and any other officers, provided that no member shall be elected ~~chair~~ vice-chair for more than two (2) consecutive years. The Board shall meet at least quarterly.

E. Staffing for the Board of Investors shall be provided by the Office of the State Treasurer.

SECTION 5. AMENDATORY 62 O.S. 2001, Section 2307, is amended to read as follows:

Section 2307. A. On or before September 1 of each year, the Board of Investors of the Tobacco Settlement Endowment Trust Fund shall determine the net appreciation of the trust fund for the previous fiscal year ending June 30. The maximum earnings for each fiscal year shall not exceed the net appreciation. In determining earnings, the Board of Investors shall certify so much of the net appreciation which is prudent under the standard set forth in paragraph C of this section. The earnings so determined and certified by the Board of Investors for each fiscal year shall constitute the earnings of the Tobacco Settlement Endowment Trust Fund for the purposes of Section 40 of Article X of the Oklahoma Constitution.

B. "Net appreciation" consists of the positive difference, if any, between the dollar value of the Tobacco Settlement Endowment Trust Fund and the historic dollar value as of a given date. Both unrealized and realized gains and losses, as well as cash on hand, shall be taken into account in determining the dollar value of the trust fund. "Historic dollar value" means the aggregate fair value in dollars of:

1. The monies transferred to the Tobacco Settlement Endowment Trust Fund pursuant to Section ~~29~~ 25, Chapter 8, 1st Extraordinary Session, O.S.L. 2000;

2. Any payments to the trust fund principal pursuant to the tobacco settlement entered into on November 13, 1998, and pursuant to Section 40 of Article X of the Oklahoma Constitution; and

3. Payments from any future settlements or judgments to the trust fund pursuant to Section 40 of Article X of the Oklahoma Constitution; and

4. Other payments or appropriations added or contributed to the trust fund principal by law.

The determination of historic dollar value made in good faith by the Board of Investors shall be conclusive.

C. In the administration of the powers to determine net appreciation and earnings, to make and retain investments, and to delegate investment management of institutional funds, the Board of Investors shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing, the Board of Investors shall consider:

1. Long- and short-term needs of the trust fund in carrying out its purposes;

2. The present and anticipated financial requirements for programs funded by the Board of Directors of the Tobacco Settlement Endowment Trust Fund;

3. Expected total return on its investments;

4. Price level and inflation trends; and

5. General economic conditions.

SECTION 6. REPEALER 60 O.S. 2001, Section 676, is hereby repealed.

SECTION 7. This act shall become effective July 1, 2002.

SECTION 8. 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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