

CS for SB 853

THE STATE SENATE
Monday, February 26, 2007

Committee Substitute for
Senate Bill No. 853

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 853 - By: WILSON of the Senate and LIEBMANN of the House.

[property and public finance - Uniform Unclaimed Property Act - effective date - emergency]

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

SECTION 1. AMENDATORY 60 O.S. 2001, Section 652, is amended to read as follows:

Section 652. A. Any demand, savings, or matured time deposit with a banking or financial organization, and any funds paid toward the purchase of a share, funds paid toward a mutual investment certificate, or funds paid toward any other interest in a banking or financial organization is presumed abandoned, unless the owner, within five (5) years has:

1. In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;

2. Communicated in writing with the banking or financial organization concerning the property;

1 3. Otherwise indicated an interest in the property as evidenced
2 by a memorandum or other record on file prepared by an employee of
3 the banking or financial organization;

4 4. Owned other property to which the provisions of paragraph 1,
5 2 or 3 of this subsection apply and if the banking or financial
6 organization communicates in writing with the owner with regard to
7 the property that would otherwise be presumed abandoned under this
8 subsection at the address to which communications regarding the
9 other property are regularly sent; or

10 5. Had another relationship with the banking or financial
11 organization concerning which the owner has:

12 a. communicated in writing with the banking or financial
13 organization, or

14 b. otherwise indicated an interest as evidenced by a
15 memorandum or other record on file prepared by an
16 employee of the banking or financial organization and
17 if the banking or financial organization communicates
18 in writing with the owner with regard to the property
19 that would otherwise be abandoned under this
20 subsection at the address to which communications
21 regarding the other relationship regularly are sent.

22 If a banking or financial organization has sent a statement or
23 other business communication concerning such property to the owner

1 by first-class mail and the statement or other business
2 communication has not been returned for inability to make delivery
3 to the addressee, the property shall not be presumed to be
4 abandoned. The five-year abandonment period shall begin to run when
5 any statement or other business communication to the owner has been
6 returned as undeliverable, or on the last date that the owner has
7 communicated with the banking or financial organization in any of
8 the ways specified in paragraphs 1 through 5 of this subsection,
9 whichever is the later.

10 B. For purposes of subsection A of this section, "property"
11 includes interest and dividends.

12 C. A holder may not impose with respect to property described
13 in subsection A of this section any charge due to dormancy or
14 inactivity or cease payment of interest unless:

15 1. Reasonable notice that the holder may impose the charge or
16 cease payment of interest is given to the owner of the property,
17 either:

- 18 a. at the time the account is opened,
- 19 b. through a schedule of charges sent to the owner of the
20 property, or
- 21 c. through a statement in the rules, regulations, or
22 bylaws of the holder that the holder may impose the
23 charge or cease payment of interest; and

1 2. The holder regularly imposes such charges or ceases payment
2 of interest. If the holder regularly reverses or otherwise cancels
3 such charges or retroactively credits interest for a reason other
4 than an error or omission by the holder, then in proportion to the
5 extent that it does so with respect to other deposits, the holder
6 shall likewise reverse or otherwise cancel charges or retroactively
7 credit interest with respect to property that is reported to the
8 State Treasurer as unclaimed under the Uniform Unclaimed Property
9 Act.

10 D. Automatically renewable time deposits shall be subject to
11 this section, except that automatically renewable time deposits
12 shall be presumed abandoned fifteen (15) years following the
13 expiration of the initial time period of the time deposit unless,
14 during that period the owner has:

15 1. Increased or decreased the amount of the deposit;

16 2. Communicated in writing with the banking or financial
17 organization concerning the property;

18 3. Otherwise indicated an interest in the property as evidenced
19 by a memorandum or other record on file prepared by an employee of
20 the banking or financial organization; or

21 4. Had another relationship with the banking or financial
22 organization concerning which the owner has:

- 1 a. communicated in writing with the banking or financial
2 organization, or
- 3 b. otherwise indicated an interest as evidenced by a
4 memorandum or other record on file prepared by an
5 employee of the banking or financial organization and
6 if the banking or financial organization communicates
7 in writing with the owner with regard to the property
8 that would otherwise be presumed abandoned under this
9 section at the address to which communications
10 regarding the other relationship are regularly sent.

11 Upon presumed abandonment of the automatically renewable time
12 deposit, the holder shall report the presumed abandonment to the
13 State Treasurer and may, at the holder's option, either retain the
14 property or pay or deliver it to the State Treasurer.

15 SECTION 2. AMENDATORY 60 O.S. 2001, Section 661, as last
16 amended by Section 2, Chapter 233, O.S.L. 2006 (60 O.S. Supp. 2006,
17 Section 661), is amended to read as follows:

18 Section 661. A. A person holding property, tangible or
19 intangible, presumed abandoned and subject to custody as unclaimed
20 property under the Uniform Unclaimed Property Act shall report to
21 the State Treasurer concerning the property as provided in this
22 section.

23 B. The report must be verified and must include:

1 1. The name, if known, and last-known address, if any, of each
2 person appearing from the records of the holder to be the owner of
3 property of the value of Fifty Dollars (\$50.00) or more presumed
4 abandoned under the Uniform Unclaimed Property Act and items of
5 value under Fifty Dollars (\$50.00), reported in the aggregate,
6 except property which is one of a recurring number of continuous
7 payments, including, but not limited to, royalties, annuities,
8 dividends, distributions and other sums presumed abandoned pursuant
9 to subsection D of Section 655 of this title, which shall be
10 reported in the same manner as property with a value of Fifty
11 Dollars (\$50.00) or more;

12 2. In the case of unclaimed funds of Fifty Dollars (\$50.00) or
13 more held or owing under any life or endowment insurance policy or
14 annuity contract, the full name and last-known address of the
15 insured or annuitant and of the beneficiary according to the records
16 of the insurance company holding or owing the funds;

17 3. In the case of the contents of a safe deposit box or other
18 safekeeping repository or of other tangible personal property, a
19 description of the property and the place where it is held, which
20 may be inspected by the State Treasurer, and any amounts, including
21 offsets for drilling costs and rent, owing to the holder;

22 4. The ~~nature and identifying number, if any, or~~ description of
23 the property, including type and identifying number if any, and the

1 amount appearing from the records to be due, ~~except that items of~~
2 ~~value under Fifty Dollars (\$50.00) each must be reported in the~~
3 ~~aggregate, except property which is one of a recurring number of~~
4 ~~continuous payments, including, but not limited to, royalties,~~
5 ~~annuities, dividends, distributions, and other sums presumed~~
6 ~~abandoned pursuant to subsection D of Section 655 of this title, all~~
7 ~~of which shall be reported in the same manner as property with a~~
8 ~~value of Fifty Dollars (\$50.00) or more;~~

9 5. The date when the property became payable, demandable or
10 returnable, and the date of the last transaction with the owner with
11 respect to the property;

12 6. In the case of a cashier's check, if known, the names and
13 last-known addresses of the payee(s), the payor(s) and the
14 purchaser(s); and

15 7. Any other information reasonably required by the Treasurer.

16 C. If the person holding property presumed abandoned and
17 subject to custody as unclaimed property is a successor to other
18 persons who previously held the property for the apparent owner or
19 if the name of the holder has changed while holding the property,
20 the holder shall file with the report all known names and addresses
21 of each previous holder of the property.

22 D. The report must be filed before November 1 of each year for
23 property reportable as of the preceding September 1, but the report

1 of any life insurance company must be filed before May 1 of each
2 year for property reportable as of the preceding March 1. The State
3 Treasurer may postpone the reporting date upon written request by
4 any person required to file a report.

5 E. Not more than one hundred twenty (120) days before filing
6 the report required by this section, the holder in possession of
7 property presumed abandoned and subject to custody as unclaimed
8 property under the Uniform Unclaimed Property Act shall send written
9 notice to the apparent owner at the owner's last-known address
10 informing the owner that the holder is in possession of property
11 subject to the Uniform Unclaimed Property Act if:

12 1. The holder has in the records of the holder an address for
13 the apparent owner which the holder's records do not disclose to be
14 inaccurate;

15 2. The claim of the apparent owner is not barred by the statute
16 of limitations; and

17 3. The property has a value of Fifty Dollars (\$50.00) or more,
18 or the property has a value of less than Fifty Dollars (\$50.00)
19 ~~reportable pursuant to paragraph 4 of subsection B of this section~~
20 and is one of a recurring number of continuous payments, including,
21 but not limited to, royalties, annuities, dividends, distributions
22 and other recurring sums presumed abandoned pursuant to subsection D
23 of Section 655 of this title. The holder is not required to send

1 written notice to the owner if the holder has previously attempted
2 to communicate with the owner, or otherwise exercised due diligence
3 to ascertain the whereabouts of the owner. The mailing of notice by
4 first-class mail to the last-known address of the owner by the
5 holder shall constitute compliance with this subsection and, if
6 done, no further act on the part of the holder shall be necessary.

7 F. Reports filed by a holder shall remain confidential except
8 for that information required to be subject to public inspection
9 pursuant to the Uniform Unclaimed Property Act.

10 SECTION 3. AMENDATORY 60 O.S. 2001, Section 662, as last
11 amended by Section 2, Chapter 124, O.S.L. 2005 (60 O.S. Supp. 2006,
12 Section 662), is amended to read as follows:

13 Section 662. A. The State Treasurer shall cause ~~notice~~ at
14 least two (2) notices to be published during the year following the
15 report required by Section 661 of this title ~~at least two times~~ in a
16 legal newspaper of general circulation in the county in this state
17 in which is located the last-known address of any person to be named
18 in the notice. Different legal newspapers of general circulation
19 may be used for each notice. If no address is listed or if the
20 address is outside this state, the notice must be published in the
21 county within this state which is the principal place of business of
22 the holder of the abandoned property, or in a newspaper which the

1 State Treasurer believes most likely to be seen by the owner of the
2 property or by heirs of the owner.

3 B. The published notice must be entitled "Notice of Names of
4 Persons Appearing to be Owners of Abandoned Property", and contain:

5 1. The names in alphabetical order and last-known address, if
6 any, of persons listed in the report and entitled to notice within
7 the county as specified in subsection A of this section;

8 2. A statement that information concerning the property and the
9 name and last-known address of the holder may be obtained by any
10 person possessing an interest in the property by addressing an
11 inquiry to the State Treasurer; and

12 3. A statement that the property is in the custody of the State
13 Treasurer and all claims must be directed to the State Treasurer.

14 C. The State Treasurer is not required to publish in the notice
15 any items of less than Fifty Dollars (\$50.00) unless the State
16 Treasurer considers their publication to be in the public interest.

17 D. The State Treasurer shall provide electronic access to the
18 new names and last-known addresses of all persons reported to the
19 State Treasurer as owners of unclaimed property on an Internet web
20 site. The State Treasurer shall take reasonable steps to publicize
21 the existence of this web site and shall publish an advertisement no
22 less than once each calendar quarter in a legal newspaper of general
23 circulation in each county of this state.

1 SECTION 4. AMENDATORY 60 O.S. 2001, Section 672, is
2 amended to read as follows:

3 Section 672. The State Treasurer shall have the care, custody,
4 and management of the reserve fund, and may invest it, at the best
5 realizable rate, in ~~certificates of deposit, savings certificates,~~
6 ~~or short term obligations of the United States Government in which~~
7 ~~it shall be legal to invest the public funds of the State of~~
8 ~~Oklahoma or of any agency or instrumentality thereof~~ accordance with
9 the investment policies of the State Treasurer and the provisions of
10 state law governing the investment of public funds of the State of
11 Oklahoma. The income from such investments shall be paid into the
12 State Treasury to the credit of the General Revenue Fund.

13 SECTION 5. AMENDATORY 60 O.S. 2001, Section 678, is
14 amended to read as follows:

15 Section 678. A. The State Treasurer may require any person who
16 has not filed a report to file a verified report stating whether or
17 not the person is holding any unclaimed property reportable or
18 deliverable under the Uniform Unclaimed Property Act. If the State
19 Treasurer has reason to believe that any person has failed to report
20 property in accordance with the Uniform Unclaimed Property Act, the
21 State Treasurer may make a demand by certified mail, return receipt
22 requested, that such report be made and filed with the State
23 Treasurer. The report of abandoned property or any other report

1 required shall be made and filed with the State Treasurer within
2 sixty (60) days after receipt of the demand.

3 B. The State Treasurer may at reasonable times and upon
4 reasonable notice examine the records of any person if the State
5 Treasurer has reason to believe that such person has failed to
6 report property that should have been reported pursuant to the
7 Uniform Unclaimed Property Act. The State Treasurer may contract
8 with any other person or entity to conduct the examination on behalf
9 of the State Treasurer.

10 C. If a person is treated under Section 656 of this title as
11 the holder of the property only insofar as the interest of the
12 business association in the property is concerned, the State
13 Treasurer, pursuant to subsection B of this section, may examine the
14 records of the person if the State Treasurer has given the notice
15 required by subsection B of this section to both the person and the
16 business association at least ninety (90) days before the
17 examination.

18 D. If a holder fails after September 1, 1991, to maintain the
19 records required by Section 679.1 of this title and the records of
20 the holder available for the periods subject to the Uniform
21 Unclaimed Property Act are insufficient to permit the preparation of
22 a report, the State Treasurer may require the holder to report and

1 pay the amount that is reasonably estimated from any available
2 records.

3 SECTION 6. AMENDATORY 62 O.S. 2001, Section 7.2, as
4 amended by Section 1, Chapter 105, O.S.L. 2002 (62 O.S. Supp. 2006,
5 Section 7.2), is amended to read as follows:

6 Section 7.2 A. There is hereby re-created, to continue until
7 July 1, 2008, in accordance with the provisions of the Oklahoma
8 Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma
9 Statutes, a Special Agency Account Board, to consist of the Director
10 of State Finance, the State Treasurer and the Director of the
11 Legislative Service Bureau. The Board shall have the authority to
12 approve the establishment of agency special accounts in the official
13 depository of the State Treasury. In the case of institutions of
14 higher education, the Special Agency Account Board, acting in
15 conjunction with the Oklahoma State Regents for Higher Education,
16 shall establish special agency accounts as appropriate which shall
17 be consistent with provisions of the Oklahoma Budget Law of 1947,
18 Section 41.1 et seq. of this title, as it relates to institutions in
19 The Oklahoma State System of Higher Education.

20 B. The Board, created by this section, shall adopt procedures
21 including application forms, justification and other pertinent
22 information as to the basis for a state agency application for the
23 establishment of agency special accounts.

1 C. The Board may approve agency special accounts for money
2 received by state agencies for the following purposes:

3 1. Benefit programs for individuals, including, but not limited
4 to, unemployment compensation, workers' compensation and state
5 retirement programs;

6 2. Revenues produced by activities or facilities ancillary to
7 the operation of a state agency which receive no money, directly or
8 indirectly, from or through that state agency, including, but not
9 limited to, revenues from the sales of food at retail level, sales
10 at canteens, sales at student unions, sales at student bookstores,
11 receipts from athletic programs and receipts from housing.

12 Provided, however, that a state institution of higher learning may
13 purchase necessary equipment and instructional supplies and office
14 supplies from a student bookstore, or, subject to authorization by
15 the Oklahoma State Regents for Higher Education, may rent building
16 space for institutional use in a building operated by an
17 organization or entity whose existence is ancillary to the operation
18 of a state agency, and whose cost was financed in whole or in part
19 with revenue-type bonds; provided, further, that the cost of such
20 office supplies or space rental shall not exceed the cost of similar
21 supplies or rentals available commercially;

22 3. Gifts, devises and bequests with an agency as beneficiary,
23 unless otherwise provided by statute;

- 1 4. Evidence funds for law enforcement agencies;
- 2 5. Student loan funds and scholarship funds;
- 3 6. Funds held in escrow;
- 4 7. Land Commission funds;
- 5 8. Funds for which the state agency acts as custodian,
- 6 including, but not limited to, fees from employee earnings approved
- 7 by the governing board of the agency, funds of student organizations
- 8 including student activity fees collected by an educational
- 9 institution as a separate item in enrollment procedures,
- 10 professional organizations, patients and inmates;
- 11 9. Funds used by the Oklahoma Tax Commission to pay for the
- 12 filing of liens with the Federal Aviation Administration;
- 13 10. Temporary accounts for funds arising from new or amended
- 14 legislation not otherwise provided for in statute or for other
- 15 emergency situations. Such accounts are to be utilized only pending
- 16 legislative action directing custody of such funds;
- 17 11. Payment of liability claims against the state;
- 18 12. Activities of the various Armory Boards of the Oklahoma
- 19 Military Department to receive and dispense funds derived by the
- 20 Armory Boards pursuant to Sections 232.6 and 232.7 of Title 44 of
- 21 the Oklahoma Statutes; and

1 13. Payment of expenses incurred in connection with the
2 acceptance of payments made with nationally recognized credit cards;
3 and

4 14. Money damages awarded to an agency pursuant to a judgment
5 or settlement.

6 D. The State Treasurer is authorized to accept deposit of money
7 made directly to agency special accounts approved by the Board. All
8 money received by a state agency, as described in Section 7.1 of
9 this title, shall be deposited in State Treasury funds or accounts
10 and no money shall be deposited in banks or other depositories
11 unless the bank accounts are maintained by the State Treasurer or
12 are for the deposit of authorized petty cash funds.

13 E. Money deposited in agency special accounts shall be
14 disbursed on vouchers issued by the state agency concerned to
15 accomplish the purpose for which the money was intended.

16 F. Funds and revenues of the Grand River Dam Authority are
17 exempt from the requirements of this section.

18 G. Funds and revenues of the Oklahoma Municipal Power Authority
19 are exempt from the requirements of this section.

20 H. Monies used for investment purposes by the Oklahoma
21 Firefighters Pension and Retirement System, the Oklahoma Police
22 Pension and Retirement System, the Uniform Retirement System for
23 Justices and Judges, the Oklahoma Law Enforcement Retirement System,

1 the Oklahoma Public Employees Retirement System, the Teachers'
2 Retirement System of Oklahoma, the State Insurance Fund, the State
3 and Education Employees Group Insurance Board, the Commissioners of
4 the Land Office, and the Oklahoma State Regents for Higher Education
5 for its Endowment Trust Fund are exempt from the requirements of
6 this section, and shall be placed with the respective custodian bank
7 or trust company.

8 SECTION 7. AMENDATORY 62 O.S. 2001, Section 89.5, is
9 amended to read as follows:

10 Section 89.5 A. There is hereby created in the State Treasury
11 a revolving fund for the Office of the State Treasurer to be
12 designated the "State Treasurer's Revolving Fund". The fund shall
13 be a continuing fund not subject to fiscal year limitations, and
14 shall consist of all monies received by the Office of the State
15 Treasurer from fees and receipts collected pursuant to the Oklahoma
16 Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma
17 Statutes; monies received, including, but not limited to, reasonable
18 and customary service-related charges, ~~excluding bank service~~
19 ~~charges~~, any monies received from the sale of surplus property, and
20 any grants-in-aid received from the federal government for the
21 operations of the Office of the State Treasurer unless otherwise
22 provided by federal law or regulation. All monies accruing to the
23 credit of said fund are hereby appropriated and may be budgeted and

1 expended by the Office of the State Treasurer for the operating
2 expenses of the said office. Expenditures from said fund shall be
3 made upon warrants issued by the State Treasurer against claims
4 filed as prescribed by law with the Director of State Finance for
5 approval and payment.

6 B. The State Treasurer shall appoint and fix the duties and
7 compensation of employees, not otherwise prescribed by law,
8 necessary to perform the duties imposed upon the Office of the State
9 Treasurer by law.

10 SECTION 8. AMENDATORY 62 O.S. 2001, Section 89.6, is
11 amended to read as follows:

12 Section 89.6 The State Treasurer shall charge and collect the
13 following fees:

14 1. For any returned check, a fee of Twenty-five Dollars
15 (\$25.00);

16 2. For handling and processing rejected warrant items processed
17 by the State Treasurer, a fee of forty-two cents (\$0.42) per item;
18 ~~and~~

19 3. For handling a stop-payment item processed by the State
20 Treasurer on behalf of a state agency, a fee of Ten Dollars (\$10.00)
21 for each item up to a maximum fee of Two Hundred Fifty Dollars
22 (\$250.00) per day;

1 4. For expenses incurred in managing the state agency and
2 General Fund blended portfolio, an annual fee of not more than two
3 and one-half (2 1/2) basis points may be charged monthly against the
4 average daily balance of the portfolio; provided, such fees will be
5 collected at the time earnings are deposited to the General Fund and
6 to participating state agencies; and

7 5. For expenses incurred in connection with separately managed
8 investment portfolios, other than the state agency and General Fund
9 blended portfolio, an annual fee of not more than five (5) basis
10 points may be charged monthly against the average daily balance of
11 each portfolio; provided, such fees will be collected at the time
12 earnings are deposited to accounts for the benefit of portfolio
13 owners.

14 SECTION 9. This act shall become effective July 1, 2007.

15 SECTION 10. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

19 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-20-07 - DO PASS,
20 As Amended and Coauthored.