

EHB 3315

THE STATE SENATE
Wednesday, March 24, 2010

ENGROSSED

House Bill No. 3315

As Amended

ENGROSSED HOUSE BILL NO. 3315 - By: Martin (Scott) of the House and Anderson and Ivester of the Senate.

[property - Uniform Unclaimed Property Act - checks and warrants - Small Business Linked Deposit Act - effective date]

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

SECTION 1. AMENDATORY 60 O.S. 2001, Section 651.2, is amended to read as follows:

Section 651.2 A. Any sum payable on a check, certified check, cashier's check, draft, or similar instrument, except those subject to Section 651.1 of this title, on which a banking or financial organization is directly liable, which has been outstanding for more than five (5) years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within five (5) years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record, on file, prepared by an employee thereof.

B. A record of the issuance of a check, draft, or similar instrument shall be prima facie evidence of an obligation.

1 C. The burden of proof upon the State Treasurer in claiming
2 property from a holder, who is also the issuer, shall be satisfied
3 by demonstrating the issuance of the instrument and the passage of
4 the requisite period of abandonment as provided in subsection A of
5 this section.

6 D. The holder may assert affirmative defenses of:

7 1. Payment;

8 2. Satisfaction;

9 3. Discharge; and

10 4. Want of consideration.

11 SECTION 2. AMENDATORY 60 O.S. 2001, Section 661, as last
12 amended by Section 1, Chapter 433, O.S.L. 2009 (60 O.S. Supp. 2009,
13 Section 661), is amended to read as follows:

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

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

20 1. The name, if known, and last-known address, if any, of each
21 person appearing from the records of the holder to be the owner of
22 property of the value of Fifty Dollars (\$50.00) or more presumed
23 abandoned under the Uniform Unclaimed Property Act and items of

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

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

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

18 4. The description of the property, including type and
19 identifying number if any, and the amount appearing from the records
20 to be due;

21 5. The date when the property became payable, demandable or
22 returnable, and the date of the last transaction with the owner with
23 respect to the property;

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

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

5 C. If the person holding property presumed abandoned and
6 subject to custody as unclaimed property is a successor to other
7 persons who previously held the property for the apparent owner or
8 if the name of the holder has changed while holding the property,
9 the holder shall file with the report all known names and addresses
10 of each previous holder of the property.

11 D. The report must be filed before November 1 of each year for
12 property reportable as of the preceding July 1, but the report of
13 any life insurance company must be filed before May 1 of each year
14 for property reportable as of the preceding March 1. The State
15 Treasurer may postpone the reporting date upon written request by
16 any person required to file a report.

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

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

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

6 3. The property has a value of Fifty Dollars (\$50.00) or more,
7 or the property has a value of less than Fifty Dollars (\$50.00) and
8 is one of a recurring number of continuous payments, including, but
9 not limited to, royalties, annuities, dividends, distributions and
10 other recurring sums presumed abandoned pursuant to subsection D of
11 Section 655 of this title. The holder is not required to send
12 written notice to the owner if the holder has previously attempted
13 to communicate with the owner, or otherwise exercised due diligence
14 to ascertain the whereabouts of the owner. The mailing of notice by
15 first-class mail to the last-known address of the owner by the
16 holder shall constitute compliance with this subsection and, if
17 done, no further act on the part of the holder shall be necessary.

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

21 G. The Treasurer may require a holder reporting fifteen or more
22 items of property pursuant to this section to file the report

1 electronically. The Treasurer shall promulgate rules necessary to
2 carry out provisions for electronic filing.

3 SECTION 3. AMENDATORY 60 O.S. 2001, Section 664, is
4 amended to read as follows:

5 Section 664. A. Upon the payment or delivery of abandoned
6 property to the State Treasurer, the state assumes custody and
7 responsibility for the safekeeping of the property. A person who
8 pays or delivers property to the State Treasurer in good faith is
9 relieved of all liability to the extent of the value of the property
10 paid or delivered for any claim then existing or which thereafter
11 may arise or be made in respect to the property.

12 B. A holder who has paid money to the State Treasurer pursuant
13 to the Uniform Unclaimed Property Act may make payment to any person
14 appearing to the holder to be entitled to payment; and upon filing
15 proof of such payment and proof that the payee was entitled thereto,
16 the State Treasurer shall promptly reimburse the holder for the
17 payment without imposing a fee or other charge. If reimbursement is
18 sought for a payment made on a negotiable instrument, including a
19 travelers check or money order, the holder ~~must~~ shall be reimbursed
20 under this subsection upon filing proof that the instrument was
21 presented and that payment was made to a person who appeared to the
22 holder to be entitled to payment. The holder ~~must~~ shall be
23 reimbursed for payment made under this subsection even if the holder

1 paid a person whose claim was barred under subsection A of Section
2 666 of this title.

3 C. A holder who has delivered property, including, but not
4 limited to, a certificate of an ownership interest in a business
5 association, other than money to the State Treasurer pursuant to the
6 Uniform Unclaimed Property Act may reclaim the property if still in
7 the possession of the Treasurer, without paying any fee or other
8 charge, upon filing proof that the owner has claimed the property
9 from the holder.

10 D. The State Treasurer may accept the holder's affidavit as
11 sufficient proof of the facts that entitle the holder to recover
12 money and property under this section.

13 E. If the holder pays or delivers property to the State
14 Treasurer in good faith and thereafter another person claims the
15 property from the holder or another state claims the money or
16 property under its laws relating to escheat or abandoned or
17 unclaimed property, the State Treasurer, upon written notice of the
18 claim, shall defend the holder against the claim and, to the extent
19 of the property's value, shall indemnify the holder against
20 liability on the claim. Neither the holder nor the State Treasurer
21 shall be liable for more than the value of the property, determined
22 as of the time of its payment or delivery to the State Treasurer, if

1 the holder paid or delivered the property to the State Treasurer in
2 good faith.

3 F. For the purposes of this section, "good faith" means that:

4 1. Payment or delivery was made in a reasonable attempt to
5 comply with the Uniform Unclaimed Property Act;

6 2. The person delivering the property was not a fiduciary then
7 in breach of trust in respect to the property and had a reasonable
8 basis for believing, based on the facts then known, that the
9 property was abandoned for the purposes of the Uniform Unclaimed
10 Property Act; ~~and~~

11 3. There is no showing that the records under which the
12 delivery was made did not meet reasonable commercial standards of
13 practice in the industry; and

14 4. The reporting and delivery of property was made in
15 compliance with Sections 661 and 663 of this title and any
16 applicable administrative rules.

17 SECTION 4. AMENDATORY 60 O.S. 2001, Section 674.2, as
18 amended by Section 12, Chapter 224, O.S.L. 2003 (60 O.S. Supp. 2009,
19 Section 674.2), is amended to read as follows:

20 Section 674.2 If any person claims an interest in any property
21 delivered to the State Treasurer in which the owner of the property
22 is determined to be deceased, the State Treasurer shall not pay over
23 or deliver to the claimant property as provided in Section 651 et

1 seq. of this title, unless the claimant provides the following
2 items:

3 1. A certified copy of letters of administration or letters
4 testamentary from the probate of the estate of the decedent naming
5 the claimant as the personal representative of the estate of the
6 decedent;

7 2. A certified copy of the decree of distribution from the
8 probate of the estate of the decedent determining the claimant to be
9 entitled to receive such property through the estate of the
10 decedent;

11 3. If the owner of the property executed an inter vivos trust
12 which provided for the disposition of the property of the owner, a
13 properly verified copy of the trust instrument which shows the
14 claimant is the trustee or beneficiary of the trust or otherwise
15 entitled to the property reported; ~~or~~

16 4. If the property is derived from real property located in
17 Oklahoma, a certified copy of a final decree quieting title of the
18 decedent's real property, determining the claimant to be the
19 successor in interest of decedent's ownership interest; or

20 5. If the value of the property is Ten Thousand Dollars
21 (\$10,000.00) or less, a signed affidavit executed by the claimant
22 stating that the claimant is entitled to receive such property, the
23 reason the claimant is entitled to receive such property, that there

1 has been no probate of the estate of the deceased owner, that no
2 probate is contemplated and that claimant will indemnify the state
3 for any loss, including attorney fees, should another claimant
4 assert a prior right to the property.

5 The State Treasurer may require other reasonable documentation,
6 in addition to the above items, to determine the validity of the
7 claim.

8 SECTION 5. AMENDATORY 60 O.S. 2001, Section 675, as
9 amended by Section 5, Chapter 433, O.S.L. 2009 (60 O.S. Supp. 2009,
10 Section 675), is amended to read as follows:

11 Section 675. A. The State Treasurer shall consider any claim
12 filed under the Uniform Unclaimed Property Act and may hold a
13 hearing and receive evidence concerning it. The procedure to be
14 followed hereunder shall be as prescribed by the Administrative
15 Procedures Act. If a hearing is held, the State Treasurer shall
16 prepare a finding and decision in writing on each claim filed,
17 stating the substance of any evidence heard by the State Treasurer
18 and the reasons for the State Treasurer's decision. The decision
19 shall be a public record.

20 B. Upon approval by the State Treasurer, the claim shall be
21 paid forthwith from the Unclaimed Property Fund. The claim shall be
22 paid without deduction for costs of notices or sale or for service
23 charges.

1 C. The State Treasurer shall not pay monies to rightful owners,
2 or their heirs, devisees, and assigns, exceeding the reimbursement
3 amount the Treasurer shall receive from the Mineral Owner's Fund
4 attributable to such payments to rightful owners, or their heirs,
5 devisees, and assigns.

6 D. Claims against the Mineral Owner's Fund shall be subject to
7 the same statutory requirements and administrative rules as
8 applicable to claims under the Uniform Unclaimed Property Act.

9 SECTION 6. AMENDATORY Section 43, Chapter 441, O.S.L.
10 2009 (62 O.S. Supp. 2009, Section 34.66), is amended to read as
11 follows:

12 Section 34.66 A. The State Treasurer shall write checks or
13 warrants in payment of claims and payrolls certified to the State
14 Treasurer for payment by the Division of Central Accounting and
15 Reporting or:

- 16 1. The Department of Human Services;
- 17 2. The Department of Rehabilitative Services;
- 18 3. The State Department of Health;
- 19 4. The Department of Transportation;
- 20 5. The State Department of Education;
- 21 6. The Oklahoma Department of Career and Technology Education;
- 22 and

1 7. The institutions within The Oklahoma State System of Higher
2 Education.

3 B. The State Treasurer, within such limitations as the State
4 Treasurer may prescribe, may authorize the Director of the Office of
5 State Finance and the entities specified in subsection A of this
6 section to issue the checks or warrants for payment of claims and
7 payrolls that have been certified by the respective agency.

8 C. The Director of the Office of State Finance and the entities
9 specified in subsection A of this section shall provide the State
10 Treasurer a register of each payment for each check or warrant
11 issued. To protect against fraud, information contained within the
12 register of checks or warrants shall not be subject to the Oklahoma
13 Open Records Act until the earlier of:

14 1. Such checks or warrants are submitted for redemption; or

15 2. Such checks or warrants are cancelled by statute.

16 D. In lieu of checks or warrants:

17 1. The Director of the Office of State Finance may, with the
18 concurrence of the State Treasurer, settle interagency claims by
19 transfer entry; and

20 2. At the discretion of the State Treasurer, pay claims and
21 payrolls by the electronic transfer of funds.

1 SECTION 7. AMENDATORY 62 O.S. 2001, Section 89.2, as
2 last amended by Section 8, Chapter 433, O.S.L. 2009 (62 O.S. Supp.
3 2009, Section 89.2), is amended to read as follows:

4 Section 89.2 A. The State Treasurer is directed to invest the
5 maximum amount of funds under control of the State Treasurer
6 consistent with good business practices; provided that the Treasurer
7 shall keep eighty percent (80%) or more of the money under control
8 of the State Treasurer invested during each fiscal year based on the
9 average daily balances during the fiscal year. Except as otherwise
10 provided for by law, the investments shall earn not less than the
11 rate for comparable maturities on United States Treasury
12 obligations. Except as otherwise provided for by law, the State
13 Treasurer may purchase and invest only in:

14 1. Obligations of the United States Government, its agencies
15 and instrumentalities, or other obligations fully insured or
16 unconditionally guaranteed as to the payment of principal and
17 interest by the United States government or any of its agencies and
18 instrumentalities;

19 2. Collateralized or insured certificates of deposit and other
20 evidences of deposit at banks, savings banks, savings and loan
21 associations and credit unions located in this state;

22 3. Negotiable certificates of deposit issued by a nationally or
23 state-chartered bank, a savings bank, a savings and loan association

1 or a state-licensed branch of a foreign bank. Purchases of
2 negotiable certificates of deposit shall not exceed ten percent
3 (10%) of the cash available for investment which may be invested
4 pursuant to this section. Not more than one-half (1/2) of the ten
5 percent (10%) limit shall be invested in any one financial
6 institution specified in this paragraph;

7 4. Prime banker's acceptances which are eligible for purchase
8 by the Federal Reserve System and which do not exceed two hundred
9 seventy (270) days' maturity. Purchases of prime banker's
10 acceptances shall not exceed ten percent (10%) of the cash available
11 for investment which may be invested pursuant to this section. Not
12 more than three-fourths (3/4) of the ten percent (10%) limit shall
13 be invested in any one commercial bank pursuant to this paragraph;

14 5. Prime commercial paper which shall not have a maturity that
15 exceeds one hundred eighty (180) days nor represent more than ten
16 percent (10%) of the outstanding paper of an issuing corporation.
17 Purchases of prime commercial paper shall not exceed seven and one-
18 half percent (7 1/2%) of the cash available for investment which may
19 be invested pursuant to this section;

20 6. Investment grade obligations of state and local governments,
21 including obligations of Oklahoma state public trusts which possess
22 the highest rating from at least one nationally recognized rating
23 agency acceptable to the State Treasurer. Purchases of investment

1 grade obligations of state and local governments shall not exceed
2 ten percent (10%) of the cash available for investment which may be
3 invested pursuant to this section;

4 7. Repurchase agreements, provided that such agreements are
5 included within the written investment policy required by subsection
6 D of this section that have underlying collateral consisting of
7 those items and those restrictions specified in paragraphs 1 through
8 6 of this subsection;

9 8. Money market funds and short term bond funds regulated by
10 the Securities and Exchange Commission and which investments consist
11 of those items and those restrictions specified in paragraphs 1
12 through 7 of this subsection; and

13 9. Bonds, notes, debentures or other similar obligations of a
14 foreign government which the International Monetary Fund lists as an
15 industrialized country and for which the full faith and credit of
16 such nation has been pledged for the payment of principal and
17 interest; provided, that any such security shall be rated at least
18 A- or better by Standard & Poor's Corporation or A3 or better by
19 Moody's Investors Service, or an equivalent investment grade by a
20 securities ratings organization accepted by the National Association
21 of Insurance Commissioners; and provided further, that the total
22 investment in such foreign securities at any one time shall not
23 exceed five percent (5%) of the cash available for investment which

1 may be invested pursuant to this section. In no circumstance shall
2 investments be made in bonds, notes, debentures or any similar
3 obligations of a foreign government that:

4 a. is identified as a state sponsor of terrorism by the
5 United States Department of State, or

6 b. any authoritarian or totalitarian government the
7 sovereign powers of which are exercised through a
8 single person or group of persons who are not elected
9 by any form of legitimate popular voting.

10 B. Investments shall be made with judgment and care, under
11 circumstances then prevailing, which persons of prudence, discretion
12 and intelligence exercise in the management of their own affairs,
13 not for speculation, but for investment, considering the probable
14 safety of their capital as well as the probable income to be
15 derived.

16 C. The State Treasurer shall appoint an investment officer who
17 shall perform duties related to the investment of state funds in the
18 Office of the State Treasurer. The investment officer shall not
19 perform or supervise any accounting functions, data processing
20 functions or duties related to the documentation or settlement of
21 investment transactions.

1 D. Investments of public funds by the State Treasurer shall be
2 made in accordance with written policies developed by the State
3 Treasurer. The written investment policies shall address:

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

10 The State Treasurer shall place primary emphasis on safety and
11 liquidity in the investment of public funds. To the extent
12 practicable taking into account the need to use sound investment
13 judgment, the written investment policies shall include provision
14 for utilization of a system of competitive bidding in the investment
15 of state funds. The written investment policies shall be designed
16 to maximize yield within each class of investment instrument,
17 consistent with the safety of the funds invested.

18 E. The State Treasurer shall select one custodial bank to
19 settle transactions involving the investment of state funds under
20 the control of the State Treasurer. The State Treasurer shall
21 review the performance of the custodial bank at least once every
22 year. The State Treasurer shall require a written competitive bid
23 every five (5) years. The custodial bank shall have a minimum of

1 Five Hundred Million Dollars (\$500,000,000.00) in assets to be
2 eligible for selection. Any out-of-state custodial bank shall have
3 a service agent in the State of Oklahoma so that service of summons
4 or legal notice may be had on such designated agent as is now or may
5 hereafter be provided by law. In order to be eligible for
6 selection, the custodial bank shall allow electronic access to all
7 transaction and portfolio reports maintained by the custodial bank
8 involving the investment of state funds under control of the State
9 Treasurer. The access shall be given to both the State Treasurer
10 and to the Cash Management and Investment Oversight Commission. The
11 requirement for electronic access shall be incorporated into any
12 contract between the State Treasurer and the custodial bank.
13 Neither the State Treasurer nor the custodial bank shall permit any
14 of the funds under the control of the State Treasurer or any of the
15 documents, instruments, securities or other evidence of a right to
16 be paid money to be located in any place other than within a
17 jurisdiction or territory under the control or regulatory power of
18 the United States Government.

19 F. The investment policy shall specify the general philosophy,
20 policies and procedures to be followed in the investment of state
21 monies by the State Treasurer. The investment policy shall include,
22 but not be limited to, the following:

23 1. Policy objectives;

- 1 2. Performance measure objectives;
- 2 3. Authority for investment program;
- 3 4. Possible use of an investment advisory committee;
- 4 5. Reporting and documentation of investments;
- 5 6. Authorized investment instruments;
- 6 7. Diversification of investment risk;
- 7 8. Maturity limitations;
- 8 9. Selections of financial institutions;
- 9 10. Interest controls;
- 10 11. Safekeeping of investments;
- 11 12. Investment ethics; and
- 12 13. Formal adoption of policy.

13 G. The State Treasurer shall provide weekly reports of all
14 investments made by the State Treasurer ~~for that week to the~~
15 ~~Executive Review Committee of~~ if requested by the Cash Management
16 and Investment Oversight Commission, and list any commissions, fees
17 or payments made for services regarding such investments. The
18 reports required by this subsection shall be delivered to the
19 ~~Committee~~ Commission within three (3) business days of the end of
20 the applicable week, ~~and the Committee shall communicate any facts~~
21 ~~or information it deems appropriate to the Cash Management and~~
22 ~~Investment Oversight Commission and shall also prepare all reports~~
23 ~~necessary for the quarterly meeting of the Commission.~~

1 H. Not later than July 1 of each year, the State Treasurer
2 shall forward a copy of the written investment policy to the
3 Governor, the Speaker of the House of Representatives, the President
4 Pro Tempore of the Senate, the Attorney General, the Bank
5 Commissioner, and the Director of State Finance. In addition, the
6 State Treasurer shall maintain one copy of the investment policy in
7 the office of the State Treasurer for public inspection during
8 regular business hours. Copies of any modifications to the
9 investment policy shall be forwarded to the Governor, Speaker of the
10 House of Representatives, President Pro Tempore of the Senate, and
11 each member of the Cash Management and Investment Oversight
12 Commission.

13 SECTION 8. AMENDATORY 62 O.S. 2001, Section 89.6, as
14 amended by Section 9, Chapter 433, O.S.L. 2009 (62 O.S. Supp. 2009,
15 Section 89.6), is amended to read as follows:

16 Section 89.6 The State Treasurer may charge and collect the
17 following fees:

- 18 1. For any returned check or electronic debit that is returned,
19 a fee of Twenty-five Dollars (\$25.00);
- 20 2. For handling and processing rejected warrant items processed
21 by the State Treasurer, a fee of ~~forty-two cents (\$0.42)~~ One Dollar
22 (\$1.00) per item;

1 3. For handling a stop-payment item processed by the State
2 Treasurer on behalf of a state agency, a fee of ~~Ten Dollars (\$10.00)~~
3 Fifteen Dollars (\$15.00) for each item up to a maximum fee of ~~Two~~
4 ~~Hundred Fifty Dollars (\$250.00)~~ Three Hundred Twenty-five Dollars
5 (\$325.00) per day; and

6 4. Beginning July 1, 2010, for expenses incurred in managing
7 the state agency blended portfolio, an annual fee of not more than
8 two and one-half (2 1/2) basis points which may be charged monthly
9 against the average daily balance of the portfolio; provided, the
10 fees shall be collected at the time earnings are deposited to
11 participating state agencies.

12 SECTION 9. AMENDATORY 62 O.S. 2001, Section 89.7, is
13 amended to read as follows:

14 Section 89.7 A. The State Treasurer shall prepare monthly and
15 annual investment performance reports of the State Treasurer's
16 Office in the form and manner required by the Cash Management and
17 Investment Oversight Commission after consultation with the State
18 Treasurer which summarize recent market conditions, economic
19 developments and anticipated investment conditions and the
20 investment plan performance, including portfolio diversification and
21 rates of return measured against the investment plan of the State
22 Treasury. The annual investment performance report shall be
23 submitted to the Commission and shall be made within ~~thirty (30)~~

1 sixty (60) calendar days after the end of the fiscal year. The
2 monthly investment performance reports shall be submitted to the
3 Executive Review Committee and shall be made within thirty (30) days
4 after the end of the applicable month. The investment performance
5 reports shall specify the investment strategies employed in the most
6 recent reporting period and describe the investment portfolio of the
7 state in terms of:

- 8 1. Securities;
- 9 2. Maturities;
- 10 3. Fund type;
- 11 4. Financial institutions from which securities were purchased,
12 including the amounts and the city and state of location;
- 13 5. Investment return compared to budgetary expectations;
- 14 6. Average yield; and
- 15 7. Average life of the portfolio.

16 The investment performance reports shall also indicate any areas of
17 concern which the State Treasurer has concerning the basic
18 investment strategies being employed. The investment performance
19 reports shall contain:

- 20 a. combined and individual rates of return and a list of
21 all losses by category of investment, over periods of
22 time;

1 b. the rate of return on deposits and all fees and
2 expenses charged as to all depository financial
3 institutions of the State Treasury and a specific
4 review of the adequacy of the collateralization;
5 c. any other information that the State Treasurer may
6 include; and
7 d. such other information that the Cash Management and
8 Investment Oversight Commission created by Section
9 71.1 of this title may request and that the State
10 Treasurer agrees to include in the investment
11 performance reports.

12 B. To the extent that the State Treasurer should have reason to
13 know, the State Treasurer shall also include in the investment
14 performance reports a listing of all payments, fees, commissions, or
15 other compensation received by any person, including but not limited
16 to individuals, financial institutions, or investment companies or
17 corporations, which have an investment agreement, contract, or other
18 arrangement with the State Treasurer, or who receive any
19 compensation as a result of a transaction involving the investment
20 of state monies or funds or the purchase, sale, or trade of
21 securities or bonds involving the Office of the State Treasurer.
22 Said listings shall also include the social security or federal
23 identification number of any person, including but not limited to

1 individuals, financial institutions, or investment companies or
2 corporations, receiving payments, fees, commissions, or other
3 compensation.

4 C. The annual investment performance report shall be written in
5 simple and easily understood language containing:

- 6 a. an analysis of the written investment plans developed
7 by the Treasurer as required by law;
- 8 b. a quantitative analysis of the performance of all
9 depository financial institutions approved by the
10 State Treasurer, with regard to monies deposited;
- 11 c. the result of the analyses prepared pursuant to
12 subparagraphs a and b of this paragraph compared with
13 similar data for other states;
- 14 d. recommendations on administrative and legislative
15 changes which are necessary to improve the performance
16 of the State Treasury in accordance with current
17 standards for large public fund portfolio management;
18 and
- 19 e. a listing by object code of the expenses of the State
20 Treasury as audited by the independent auditor
21 provided by Section 89.10 of this title.

22 D. The State Treasurer shall distribute the investment
23 performance reports to the Governor, the President Pro Tempore of

1 the Senate, the Speaker of the House of Representatives, the State
2 Auditor and Inspector, the Attorney General, and members of the Cash
3 Management and Investment Oversight Commission. Upon request, the
4 State Treasurer shall make the annual investment performance report
5 available to the members of the Legislature and the general public.
6 The annual investment performance report shall also include an
7 investment plan for the ensuing fiscal year.

8 E. The State Treasurer shall require all employees in the State
9 Treasury to sign an anti-collusion affidavit. Execution of a false
10 affidavit shall make such employees subject to disciplinary action,
11 including but not limited to termination, criminal prosecution or
12 both.

13 F. The State Treasurer shall require an anti-collusion
14 affidavit from brokers or other persons offering investment services
15 to the State Treasury. The State Treasurer shall be prohibited from
16 employing or doing business with any brokers or persons offering
17 investment services to the State Treasury who have not executed such
18 an affidavit.

19 G. The Cash Management and Investment Oversight Commission
20 shall certify that the State Treasurer has delivered to the
21 Commission the monthly and annual investment performance reports and
22 the annual financial report required by this section. If the
23 Commission determines that these reports have not been delivered by

1 the State Treasurer as required by law, the Commission shall notify
2 in writing the Governor, the Speaker of the House of
3 Representatives, the President Pro Tempore of the Senate, the
4 Attorney General, and the State Auditor and Inspector.

5 SECTION 10. This act shall become effective November 1, 2010.

6 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-23-10 - DO PASS,
7 As Amended and Coauthored.