HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1022

By: McDaniel (Randy) of the House

and

Jolley of the Senate

COMMITTEE SUBSTITUTE

An Act relating to public lands; amending 64 O.S. 2011, Section 1002, which relates to the powers and authority of the Commissioners of the Land Office; adding authority to purchase real property; amending 64 O.S. 2011, Section 1013, which relates to the investment of permanent school funds and other funds; allowing investment in certain real property; authorizing the acquisition or purchase of real property for investment purposes; limiting the amount invested in real property; limiting amount bid against certain private bidders; and declaring an emergency.

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

SECTION 1. AMENDATORY 64 O.S. 2011, Section 1002, is amended to read as follows:

Section 1002. In order that the state school lands may be administered in a manner to assure their preservation as well as the

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~~Strike thru~~ language denotes deletion from present Statutes.

appreciation of the trust estate and the maximum return from the use of state school lands for the support and maintenance of the common schools of the state, the Commissioners of the Land Office, as trustees of the state school lands, are hereby authorized and empowered to:

1. Categorize the state school lands as agricultural or commercial according to the use which the Commissioners of the Land Office determine from time to time to be most beneficial to the interest of the present and future beneficiaries of the state;

2. Sell, at public auction after appraisement, the surface interest in any state school land categorized by the Commissioners of the Land Office to be excess or when determined to be in the best interest of the trust;

3. Institute projects to develop and improve those state school lands which are categorized as commercial lands;

4. Acquire by exchange, <u>purchase,</u> gift or grant all real property and to acquire by exchange, purchase, gift or grant all personal property necessary for the purpose of utilizing trust lands for the development of commercial and agricultural leases to maximize trust income for present and future beneficiaries; and

5. Exchange any real property of the trust for other real property of equal or greater value to maximize income for present

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and future beneficiaries, in accordance with and under the safeguard of trust requirements.

SECTION 2. AMENDATORY 64 O.S. 2011, Section 1013, is amended to read as follows:

Section 1013. A. 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 current and future beneficiaries. The Commissioners of the Land Office shall make investments:

1. For the exclusive purpose of:

a. providing maximum benefits to current and future beneficiaries, and

b. defraying reasonable expenses of administering the trust funds;

2. 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

3. By diversifying the investments of the trust funds so as to minimize the risk of large losses.

B. 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 and

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real property to be owned or acquired by the Commissioners of the Land Office. The Commissioners of the Land Office shall not invest more than sixty percent (60%) of the trust fund investments in equity securities. The Commissioners of the Land Office are further authorized to acquire, purchase, exchange and grant any real property under its jurisdiction as is necessary to carry out the investment in the real property. The Commissioners of the Land Office shall not invest more than three percent (3%) of the total value of the assets of the permanent school funds in connection with investments in real property. In no case shall the Commissioners of the Land Office bid against private sector bidders above the appraised value of any property to be acquired.

C. The Commissioners shall establish an investment committee. The investment committee shall be composed of not more than three members of the Commissioners of the Land Office or their designees. 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

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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.

D. 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 the 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.

E. The Commissioners shall take any measures they deem appropriate to safeguard custody of securities and other assets of the trusts.

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

G. 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 the 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.

H. 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

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basis. The annual report shall also contain a summary of the assets of each trust and current market value as of the report date.

I. 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 recommendations regarding the investment strategies and practices, the development of internal auditing procedures and practices and any other matters as determined necessary and applicable.

J. 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 the designated agent, and the bank shall submit to the jurisdiction of Oklahoma state courts for resolution of any and all disputes. 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

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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. 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.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 03/05/2013 - DO PASS, As Amended and Coauthored.

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