

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1647

By: Montgomery

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5
6 AS INTRODUCED

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8 An Act relating to public finance; amending 62 O.S.
9 2011, Section 89.2, as last amended by Section 66,
10 Chapter 15, O.S.L. 2013 (62 O.S. Supp. 2016, Section
11 89.2), which relates to authorized investments for
12 public funds; authorizing investment categories with
13 respect to Constitutional Reserve Fund; imposing
14 restrictions; authorizing contract for investment;
15 authorizing investment in certain equity securities;
16 authorizing investment in certain debt obligations;
17 and providing for effect based upon amendment to
18 Section 15 of Article X of the Oklahoma Constitution
19 at designated General Election.

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

23 SECTION 1. AMENDATORY 62 O.S. 2011, Section 89.2, as
24 last amended by Section 66, Chapter 15, O.S.L. 2013 (62 O.S. Supp.
2016, Section 89.2), is amended to read as follows:

25 Section 89.2 A. The State Treasurer is directed to invest the
26 maximum amount of funds under control of the State Treasurer
27 consistent with good business practices. Except as otherwise
28 provided for by law, the investments shall earn not less than the
29 rate for comparable maturities on United States Treasury

1 obligations. Except as otherwise provided for by law, the State
2 Treasurer may purchase and invest only in:

3 1. Obligations of the United States Government, its agencies
4 and instrumentalities, or other obligations fully insured or
5 unconditionally guaranteed as to the payment of principal and
6 interest by the United States government or any of its agencies and
7 instrumentalities;

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

11 3. Negotiable certificates of deposit issued by a nationally or
12 state-chartered bank, a savings bank, a savings and loan association
13 or a state-licensed branch of a foreign bank. Purchases of
14 negotiable certificates of deposit shall not exceed ten percent
15 (10%) of the cash available for investment which may be invested
16 pursuant to this section. Not more than one-half (1/2) of the ten
17 percent (10%) limit shall be invested in any one financial
18 institution specified in this paragraph;

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

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

9 6. Investment grade obligations of state and local governments,
10 including obligations of Oklahoma state public trusts which possess
11 the highest rating from at least one nationally recognized rating
12 agency acceptable to the State Treasurer. Purchases of investment
13 grade obligations of state and local governments shall not exceed
14 ten percent (10%) of the cash available for investment which may be
15 invested pursuant to this section;

16 7. Repurchase agreements, provided that such agreements are
17 included within the written investment policy required by subsection
18 D of this section that have underlying collateral consisting of
19 those items and those restrictions specified in paragraphs 1 through
20 6 of this subsection;

21 8. Money market funds and short term bond funds regulated by
22 the Securities and Exchange Commission and which investments consist
23 of those items and those restrictions specified in paragraphs 1
24 through 7 of this subsection; and

1 9. Bonds, notes, debentures or other similar obligations of a
2 foreign government which the International Monetary Fund lists as an
3 industrialized country and for which the full faith and credit of
4 such nation has been pledged for the payment of principal and
5 interest; provided, that any such security shall be rated at least
6 A- or better by Standard & Poor's Corporation or A3 or better by
7 Moody's Investors Service, or an equivalent investment grade by a
8 securities ratings organization accepted by the National Association
9 of Insurance Commissioners; and provided further, that the total
10 investment in such foreign securities at any one time shall not
11 exceed five percent (5%) of the cash available for investment which
12 may be invested pursuant to this section. In no circumstance shall
13 investments be made in bonds, notes, debentures or any similar
14 obligations of a foreign government that:

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

17 b. any authoritarian or totalitarian government the
18 sovereign powers of which are exercised through a
19 single person or group of persons who are not elected
20 by any form of legitimate popular voting.

21 B. With respect to the monies in the Constitutional Reserve
22 Fund, in addition to the authorized investments described in
23 subsection A of this section, the State Treasurer shall have the
24 authority to separately invest the monies in the Constitutional

1 Reserve Fund in the following types of investments subject to the
2 limitations upon the total amount of funds invested in each category
3 and subject to a restriction that each such percentage limit shall
4 be determined as of the date the funds are first invested. The
5 State Treasurer may also contract with a third party in order to
6 make the investments authorized by the provisions of this
7 subsection. The additional authorized investment categories for the
8 Constitutional Reserve Fund are:

9 1. Preferred shares of publicly traded companies. Funds shall
10 not be used to short sell any security. Purchases of preferred
11 shares of publicly traded companies shall not exceed twenty percent
12 (20%) of available funds. Not more than one-fourth (1/4) of the
13 twenty-percent limit shall be invested in any one publicly traded
14 company pursuant to this paragraph. Preferred shares purchased
15 shall not be able to convert preferred shares to common shares.
16 Preferred shares shall not include voting rights at purchase;

17 2. Common shares of publicly traded companies. Funds shall not
18 be utilized to short sell any security. Purchases of common shares
19 shall not exceed five percent (5%) of available funds and shall not
20 exceed two percent (2%) of the equity of the company. Not more than
21 one-fourth (1/4) of the five-percent limit shall be invested in any
22 one publicly traded company pursuant to this paragraph; and

23 3. Corporate bonds maturing after three hundred sixty-five
24 (365) days but not to exceed one thousand eight hundred twenty-six

1 (1,826) days maturation nor represent more than five percent (5%) of
2 outstanding debt with a rating of A2/A or better. Purchases of
3 corporate bonds shall not exceed ten percent (10%) of funds
4 available. Not more than three-fourths (3/4) of the ten-percent
5 limit shall be invested in any one corporate obligation pursuant to
6 this paragraph.

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

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

19 ~~D.~~ E. Investments of public funds by the State Treasurer shall
20 be made in accordance with written policies developed by the State
21 Treasurer. The written investment policies shall address:

- 22 1. Liquidity;
- 23 2. Diversification;
- 24 3. Safety of principal;

- 1 4. Yield;
- 2 5. Maturity and quality; and
- 3 6. Capability of investment management.

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

12 ~~E.~~ F. The State Treasurer shall select one custodial bank to
13 settle transactions involving the investment of state funds under
14 the control of the State Treasurer. The State Treasurer shall
15 review the performance of the custodial bank at least once every
16 year. The State Treasurer shall require a written competitive bid
17 every five (5) years. The custodial bank shall have a minimum of
18 Five Hundred Million Dollars (\$500,000,000.00) in assets to be
19 eligible for selection. Any out-of-state custodial bank shall have
20 a service agent in the State of Oklahoma so that service of summons
21 or legal notice may be had on such designated agent as is now or may
22 hereafter be provided by law. In order to be eligible for
23 selection, the custodial bank shall allow electronic access to all
24 transaction and portfolio reports maintained by the custodial bank

1 involving the investment of state funds under control of the State
2 Treasurer. The access shall be given to both the State Treasurer
3 and to the Cash Management and Investment Oversight Commission. The
4 requirement for electronic access shall be incorporated into any
5 contract between the State Treasurer and the custodial bank.
6 Neither the State Treasurer nor the custodial bank shall permit any
7 of the funds under the control of the State Treasurer or any of the
8 documents, instruments, securities or other evidence of a right to
9 be paid money to be located in any place other than within a
10 jurisdiction or territory under the control or regulatory power of
11 the United States Government.

12 ~~F.~~ G. The investment policy shall specify the general
13 philosophy, policies and procedures to be followed in the investment
14 of state monies by the State Treasurer. The investment policy shall
15 include, but not be limited to, the following:

- 16 1. Policy objectives;
- 17 2. Performance measure objectives;
- 18 3. Authority for investment program;
- 19 4. Possible use of an investment advisory committee;
- 20 5. Reporting and documentation of investments;
- 21 6. Authorized investment instruments;
- 22 7. Diversification of investment risk;
- 23 8. Maturity limitations;
- 24 9. Selections of financial institutions;

- 1 10. Interest controls;
- 2 11. Safekeeping of investments;
- 3 12. Investment ethics; and
- 4 13. Formal adoption of policy.

5 ~~G.~~ H. The State Treasurer shall provide weekly reports of all
6 investments made by the State Treasurer if requested by the Cash
7 Management and Investment Oversight Commission, and list any
8 commissions, fees or payments made for services regarding such
9 investments. The reports required by this subsection shall be
10 delivered to the Commission within three (3) business days of the
11 end of the applicable week.

12 ~~H.~~ I. Not later than July 1 of each year, the State Treasurer
13 shall forward a copy of the written investment policy to the
14 Governor, the Speaker of the House of Representatives, the President
15 Pro Tempore of the Senate, the Attorney General, the Bank
16 Commissioner, and the Director of the Office of Management and
17 Enterprise Services. In addition, the State Treasurer shall
18 maintain one copy of the investment policy in the office of the
19 State Treasurer for public inspection during regular business hours.
20 Copies of any modifications to the investment policy shall be
21 forwarded to the Governor, Speaker of the House of Representatives,
22 President Pro Tempore of the Senate, and each member of the Cash
23 Management and Investment Oversight Commission.

1 SECTION 2. This act shall become effective on January 1, 2019,
2 if the provisions of Section 15 of Article X of the Oklahoma
3 Constitution are amended by a vote of the people occurring at the
4 General Election in November 2018.

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