ENGROSSED SENATE
BILL NO. 1101

By: Treat, Montgomery, Woods, and Jett of the Senate of the Senate

and

McCall of the House

An Act relating to state fiscal affairs; creating the Legacy Investment Board; designating membership of the Board; requiring the Governor to make appointments to the Board; requiring advice and consent for appointments; providing qualifications of members; designating period of terms; requiring selection of chair; making members subject to certain acts; authorizing reimbursement; prohibiting vacancies from impairing a quorum or the exercise of duties; authorizing the Board to make certain hires and enter certain contracts; providing guidelines for investments; creating the Oklahoma Legacy Fund; providing sources of funds; requiring the State Treasurer to appoint investment managers; establishing investment guidelines; authorizing realization of losses under certain circumstance; requiring income and returns to accrue to the balance of the fund; providing for appropriations of funds for certain purpose; authorizing Board to make certain expenditures from the fund; requiring the Board to submit budget; requiring approval by the Governor and Legislature; amending 62 O.S. 2021, Section 34.36, which relates to the Oklahoma State Finance Act; requiring the Legacy Investment Board to provide itemized request; amending 62 O.S. 2021, Section 89.2, which relates to investments of public funds; providing exception for investments of the Oklahoma Legacy Fund; updating statutory language; updating statutory reference; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.601 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Legacy Investment Board. The Board shall consist of ten (10) members who shall be appointed as follows:

1. The State Auditor and Inspector, or designee;

2. Two members shall be appointed by the President Pro Tempore of the Senate;

3. Two members shall be appointed by the Speaker of the House of Representatives; and

4. Five members shall be appointed by the Governor with the advice and consent of the Senate.

B. Members of the Board shall be selected based upon outstanding knowledge and leadership and shall possess the following qualifications:

1. A demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management, or retirement system management;

2. A demonstrated experience in the banking profession and a demonstrated professional experience in investment or funds management;

3. A license to practice law in this state and a demonstrated professional experience in commercial matters; or

4. A license by the Oklahoma Accountancy Board to practice in this state as a public accountant or a certified public accountant.

Members of the Board shall serve for a term of office of five (5) years. Annually, the members of the Board shall select a chair to preside at their meetings. The meetings of the members shall be subject to the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. Each appointive member may receive reimbursement for expenses pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all rights and perform all the duties of the Board.

C. The Board may hire or enter a contract for services with qualified investment managers or consultants to provide for the investment of the monies of the Oklahoma Legacy Fund created pursuant to subsection D of this section. The funds may be invested in the manner in which a prudent person would invest the funds. The

Board shall place primary emphasis on high yields with a long-term investment horizon regarding investments of the Oklahoma Legacy Fund. The risk of large losses shall be minimized by diversifying the investments in the fund, unless, under the circumstances, it is clearly prudent not to do so, which shall include the length of the investment horizon. The Board or its designees may sell investments and realize losses if such action is considered advantageous to longer-term return maximization.

D. There is hereby created in the State Treasury a fund to be known and designated as the "Oklahoma Legacy Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of surplus monies and savings appropriated by the Legislature.

E. The fund principal shall consist of monies which are deposited to the fund. Notwithstanding any other provisions of law, income and investment return on fund principal shall accrue to the fund.

F. If the balance of the fund exceeds One Billion One Hundred Million Dollars ($1,100,000,000.00), the excess funds may be appropriated by the Legislature to supplement future reductions of certified funds available to be appropriated by the Legislature resulting from measures that reduce the tax burden on the citizens of this state.

G. The Board may use monies from the fund for administrative expenses. The Board shall submit an itemized request to the Director of the Office of Management and Enterprise Services and present an annual budget for the upcoming fiscal year to the Legislature pursuant to Section 34.36 of Title 62 of the Oklahoma Statutes. The budget shall be approved by the Governor and Legislature through passage of a concurrent resolution.

SECTION 2. AMENDATORY 62 O.S. 2021, Section 34.36, is amended to read as follows:

Section 34.36. A. On the first day of October preceding each regular session of the Legislature, each state agency, including those created or established pursuant to constitutional provisions, and the Legacy Investment Board created in Section 1 of this act shall report to the Director of the Office of Management and Enterprise Services and the Chair and Vice Chair of the Legislative Oversight Committee on State Budget Performance an itemized request showing the amount needed for the ensuing fiscal year beginning with the first day of July.

B. The forms which must be used in making these reports shall be approved by the Director of the Office of Management and Enterprise Services and the Legislative Oversight Committee on State Budget Performance.

C. The forms shall be uniform, and shall clearly designate the information to be given.

D. The information provided shall include, but not be limited to:

1. A budget analysis of existing and proposed programs utilizing performance-informed budgeting techniques. Such analysis shall be included as a part of the estimate of funds needed;

2. A statement listing any other state, federal or local agencies which administer a similar or cooperating program and an outline of the interaction among such agencies;

3. A statement of the statutory authority for the missions and quantified objectives of each program;

4. A description of the groups of people served by each program in the agency;

5. A quantification of the need for the program;

6. A description of the tactics which are intended to accomplish each objective;

7. A list of quantifiable program outcomes which measure the efficiency and effectiveness of each program;

8. A ranking of these programs by priority;

9. Actual program expenditures for the current fiscal year and prior fiscal years and the number of personnel required to accomplish each program;

10. Revenues expected to be generated by each program, if any;

11. With respect to appropriated state agencies, a detailed listing of all employees and resources dedicated to the provision of

financial services including but not limited to procurement, payroll, accounts receivable and accounts payable. The provisions of this paragraph shall not be applicable to the Oklahoma State Regents for Higher Education or to any institutions within The Oklahoma State System of Higher Education; and

12. A certification that following the effective date of this act and prior to July 1, 2011, no expenditure shall have been made or funds encumbered for the purchase, lease, lease-purchase or rental of any computers, software, telecom, information technology hardware, firmware or information technology services, including support services without the prior written approval of the State Comptroller or his or her designee.

E. These appropriated agencies shall make an itemized estimate of needs for the ensuing fiscal year and the following two (2) fiscal years and request for funds for the ensuing fiscal year and an estimate of the revenues from all sources to be received by the agency during the ensuing fiscal year and the following two (2) fiscal years.

F. The Director of the Office of Management and Enterprise Services shall submit to the Governor and the Legislative Oversight Committee on State Budget Performance no later than the fifth day of October a complete list of all spending agencies which have failed to submit budgets by October 1.

G. The reports required by this section shall include an itemized listing of outstanding capital lease debt and estimated capital lease needs for the ensuing fiscal year and the following two (2) fiscal years, and shall be provided on forms prescribed by the Director of the Office of Management and Enterprise Services.

H. For the purposes of this section, "capital lease" means a lease-purchase agreement which provides an option for ~~the State of Oklahoma~~ this state or its agencies to purchase property, including personal and real property, which is the subject thereof and/or a lease agreement that provides an option for ~~the State of Oklahoma~~ this state or its agencies to lease such property, which is the subject thereof, at a nominal annual amount, after a period in which leased property is rented at fair market value.

I. The provisions of this section shall not apply to CompSource Oklahoma if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of Title 74 of the Oklahoma Statutes.

J. Not later than January 1, the Director of the Office of Management and Enterprise Services shall publish a shared services cost-performance assessment report documenting the amount of each state agency's cost for providing shared services. The lowest ranking state agencies shall enter into a contract with the Office of Management and Enterprise Services for the provision of shared financial services, provided that the Director of the Office of

Management and Enterprise Services determines that implementation of such a contract would be feasible and documents that the contractual agreement will result in cost savings or efficiencies to the state. Contracts required by this subsection shall be entered into at the start of the next fiscal year. When a state agency is contracted with the Office of Management and Enterprise Services for the provision of shared financial services, the agency may discontinue using shared services when documentation showing that the agency can provide the services at a lower cost to the state is provided to and approved by the Director of the Office of Management and Enterprise Services. As used in this subsection, "shared services" means process, resource utilization or action as defined by administrative rule. On a yearly basis the Director of the Office of Management and Enterprise Services shall compile and publish a report documenting the cost savings resulting from shared services contracts. The provisions of this subsection shall not be applicable to the Oklahoma State Regents for Higher Education or to any institutions within The Oklahoma State System of Higher Education.

SECTION 3. AMENDATORY 62 O.S. 2021, Section 89.2, is amended to read as follows:

Section 89.2. A. The State Treasurer is directed to invest the maximum amount of funds under control of the State Treasurer consistent with good business practices. Except as otherwise provided for by law, the investments shall earn not less than the rate for comparable maturities on United States Department of the Treasury obligations. Except as otherwise provided for by law, the State Treasurer may purchase and invest only in:

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

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

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

4. Prime banker’s acceptances which are eligible for purchase by the Federal Reserve System and which do not exceed two hundred seventy (270) days’ maturity. Purchases of prime banker’s acceptances shall not exceed ten percent (10%) of the cash available

for investment which may be invested pursuant to this section. Not more than three-fourths (3/4) of the ten percent (10%) limit shall be invested in any one commercial bank pursuant to this paragraph;

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

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

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

8. Money market funds and ~~short term~~ short-term bond funds regulated by the Securities and Exchange Commission and which

investments consist of those items and those restrictions specified in paragraphs 1 through 7 of this subsection; and

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

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

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

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

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

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

1. Liquidity;

2. Diversification;

3. Safety of principal;

4. Yield;

5. Maturity and quality; and

6. Capability of investment management.

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

E. The State Treasurer shall select one custodial bank to settle transactions involving the investment of state funds under the control of the State Treasurer. The State Treasurer shall review the performance of the custodial bank at least once every year. The State Treasurer 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~~ this state so that service of summons or legal notice may be had on such designated agent as is now or may hereafter be provided by law. 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 investment of state funds under control of the State Treasurer. The access shall be given to both the State Treasurer and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the State Treasurer and the custodial bank. Neither the State Treasurer nor the custodial bank shall permit any of the funds under the control of the State Treasurer 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~~ government.

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

1. Policy objectives;

2. Performance measure objectives;

3. Authority for investment program;

4. Possible use of an investment advisory committee;

5. Reporting and documentation of investments;

6. Authorized investment instruments;

7. Diversification of investment risk;

8. Maturity limitations;

9. Selections of financial institutions;

10. Interest controls;

11. Safekeeping of investments;

12. Investment ethics; and

13. Formal adoption of policy.

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

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

I. The provisions and limitations for investments provided in this section shall not apply to investments of the Oklahoma Legacy Fund created pursuant to Section 1 of this act.

SECTION 4. This act shall become effective July 1, 2023.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or 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.

Passed the Senate the 9th day of March, 2023.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of __________, 2023.

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Presiding Officer of the House of Representatives