

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 147

By: Thompson

AS INTRODUCED

An Act relating to Commissioners of the Land Office; amending 64 O.S. 2011, Section 1013, as last amended by Section 1, Chapter 8, O.S.L. 2020 (64 O.S. Supp. 2020, Section 1013), which relates to investment of the permanent school funds; clarifying that calculation of certain cap on certain investment does not include certain real property; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 64 O.S. 2011, Section 1013, as last amended by Section 1, Chapter 8, O.S.L. 2020 (64 O.S. Supp. 2020, 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

1 b. defraying reasonable expenses of administering the
2 trust funds;

3 2. With the care, skill, prudence and diligence under the
4 circumstances then prevailing that a prudent person acting in a like
5 enterprise of a like character and with like aims would use; and

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

8 B. The permanent school fund and other educational funds may
9 only be invested in bonds issued in the United States, United States
10 dollar denominated or other investments settled in United States
11 dollars or traded on the United States exchange markets and real
12 property to be owned or acquired by the Commissioners of the Land
13 Office. The Commissioners of the Land Office shall not invest more
14 than sixty percent (60%) of the trust fund investments in equity
15 securities. The Commissioners of the Land Office are further
16 authorized to acquire, purchase, exchange and grant any real
17 property under its jurisdiction as is necessary to carry out the
18 investment in the real property. The Commissioners of the Land
19 Office shall not invest more than five percent (5%) of the total
20 value of the assets of the permanent school funds in connection with
21 investments in real property. The calculation of investments in
22 real property within the five percent (5%) cap shall not include the
23 value of real property under long-term lease to the State of
24 Oklahoma, agencies of the state or subdivisions thereof. In no case

1 shall the Commissioners of the Land Office bid against private-
2 sector bidders above the appraised value of any property to be
3 acquired.

4 C. The Commissioners shall establish an investment committee.
5 The investment committee shall be composed of not more than three
6 members of the Commissioners of the Land Office or their designees.
7 The committee shall make recommendations to the Commissioners of the
8 Land Office on all matters related to the choice of managers of the
9 assets of the funds, on the establishment of investment and fund
10 management guidelines, and in planning future investment policy.
11 The committee shall have no authority to act on behalf of the
12 Commissioners of the Land Office in any circumstances whatsoever.
13 No recommendations of the committee shall have effect as an action
14 of the Commissioners of the Land Office or take effect without the
15 approval of the Commissioners as provided by law. The Commissioners
16 shall promulgate and adopt on an annual basis an investment plan.
17 The investment plan shall state the criteria for selecting
18 investment managers, the allocation of assets among investment
19 managers, and established standards of investment and fund
20 management.

21 D. The Commissioners shall retain qualified investment managers
22 to provide for investment of the fund monies and for the management
23 of investment real property pursuant to the investment plan.
24 Investment managers shall be chosen by a solicitation of proposals

1 on a competitive bid basis pursuant to standards set by the
2 Commissioners. Subject to the investment plan, each investment
3 manager shall have full discretion in the management of the funds or
4 investment real property allocated to ~~said~~ the investment managers.
5 The funds allocated to investment managers shall be actively managed
6 by them, which may include selling investments and realizing losses
7 if the action is considered advantageous to longer term return
8 maximization. Because of the total return objective, no distinction
9 shall be made for management and performance evaluation purposes
10 between realized and unrealized capital gains and losses.

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

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

16 G. The Commissioners shall compile a quarterly financial report
17 showing the performance of all the combined funds under their
18 control on a fiscal year basis. The report shall contain a list of
19 all investments made by the Commissioners and a list of any
20 commissions, fees or payments made for services regarding the
21 investments for that reporting period. The report shall be based on
22 market values and shall be compiled pursuant to uniform reporting
23 standards prescribed by the Oklahoma State Pension Commission for
24 all state retirement systems. The report shall be distributed to

1 the Oklahoma State Pension Commission, the Cash Management and
2 Investment Oversight Commission, and the Legislative Service Bureau.

3 H. Before January 1 of each year, the Commissioners shall
4 publish an annual report of all Trust operations, presented in a
5 simple and easily understood manner to the extent possible. The
6 report shall be submitted to the Governor, the Speaker of the House
7 of Representatives, the President Pro Tempore of the Senate, the
8 State Department of Education and each higher education beneficiary.
9 The annual report shall cover the operation of the Trusts during the
10 past fiscal year, including income, disbursements and the financial
11 condition of the Trusts at the end of each fiscal year on a cash
12 basis. The annual report shall also contain a summary of the assets
13 of each trust and current market value as of the report date.

14 I. The Cash Management and Investment Oversight Commission
15 shall review reports prepared by the Commissioners of the Land
16 Office pursuant to this subsection and shall make recommendations
17 regarding the investment strategies and practices, the development
18 of internal auditing procedures and practices and any other matters
19 as determined necessary and applicable.

20 J. The Commissioners of the Land Office shall select one
21 custodial bank to settle transactions involving the investment of
22 the funds under the control of the Commissioners of the Land Office.
23 The Commissioners of the Land Office shall review the performance of
24 the custodial bank at least once every year. The Commissioners of

1 the Land Office shall require a written competitive bid every five
2 (5) years. The custodial bank shall have a minimum of Five Hundred
3 Million Dollars (\$500,000,000.00) in assets to be eligible for
4 selection. Any out-of-state custodial bank shall have a service
5 agent in the State of Oklahoma so that service of summons or legal
6 notice may be had on the designated agent, and the bank shall submit
7 to the jurisdiction of Oklahoma state courts for resolution of any
8 and all disputes. In order to be eligible for selection, the
9 custodial bank shall allow electronic access to all transaction and
10 portfolio reports maintained by the custodial bank involving the
11 investment of state funds under control of the Commissioners of the
12 Land Office and to the Cash Management and Investment Oversight
13 Commission. The requirement for electronic access shall be
14 incorporated into any contract between the Commissioners of the Land
15 Office and the custodial bank. Neither the Commissioners of the
16 Land Office nor the custodial bank shall permit any of the funds
17 under the control of the Commissioners of the Land Office or any of
18 the documents, instruments, securities or other evidence of a right
19 to be paid money to be located in any place other than within a
20 jurisdiction or territory under the control or regulatory power of
21 the United States government.

22 SECTION 2. This act shall become effective July 1, 2021.

23 SECTION 3. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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