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**Jane Dee Hull
Secretary of State**

CHAPTER 64

SENATE BILL 1232

AN ACT

AMENDING SECTIONS 35-310, 35-311, 35-312, 35-313, 35-314, 35-315 AND 35-317,
ARIZONA REVISED STATUTES; RELATING TO THE STATE TREASURER.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-310, Arizona Revised Statutes, is amended to
3 read:

4 35-310. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Eligible ~~Arizona~~ depository" means any commercial or savings bank
7 or savings and loan association with its principal place of business in ~~this~~
8 ~~state~~ THE UNITED STATES which is insured by the federal deposit insurance
9 corporation or any successor, or any other insuring instrumentality of the
10 United States, in accordance with the applicable law of the United States or
11 credit union which is insured by the national credit union administration.

12 2. "Operating monies" means those treasury monies the interest from
13 which is paid to the state general fund.

14 3. "Permanent endowment funds" means those funds, established by law,
15 to retain trust monies, the principal of which may not be expended.

16 4. "Treasury monies" means all monies in the treasury of this state
17 or coming lawfully into the possession or custody of the state treasurer.

18 5. "Trust monies" means treasury monies, other than operating monies,
19 that are entrusted to the state treasurer for preservation and investment.

1 Sec. 2. Section 35-311, Arizona Revised Statutes, is amended to read:

2 35-311. State board of deposit; membership; duties

3 A. There is established a state board of deposit consisting of the
4 state treasurer, the director of the department of administration, the
5 superintendent of banks and two individuals appointed by the state treasurer.
6 The state treasurer shall be chairman of the board. The board shall keep an
7 accurate record of its proceedings. A certified copy of the record is prima
8 facie evidence of the matters appearing in the record in any court. A
9 meeting of the board may be called at any time by the chairman or a majority
10 of the board members.

11 B. The state board of deposit shall:

12 1. Hold regular monthly meetings.

13 2. Review investments ~~for the permanent endowment funds~~ OF TREASURY
14 MONIES.

15 C. The state treasurer shall furnish to the board of deposit at its
16 regular monthly meeting projections of cash flow requirements and a report
17 of the current investments as of the close of business of the preceding
18 month. The state treasurer shall make these reports available for inspection
19 by the public during normal working hours at the office of the state
20 treasurer for a period of time of not less than two years after the date of
21 the report.

22 D. The board of deposit may order the state treasurer to sell any of
23 the securities, and any order shall specifically describe the securities and
24 fix the ~~date upon~~ TIME PERIOD DURING which they are to be sold. Securities
25 so ordered to be sold shall be sold for cash by the state treasurer ~~on the~~
26 ~~date fixed in the order,~~ at the ~~then~~ current market price. The state
27 treasurer and the members of the board are not accountable for any loss
28 occasioned by sales of securities at prices lower than their ~~cost~~ BOOK VALUE.
29 Any loss ~~or expense~~ shall be charged against earnings received from interest
30 or CAPITAL GAINS ON the applicable treasury monies.

31 Sec. 3. Section 35-312, Arizona Revised Statutes, is amended to read:

32 35-312. Investment of treasury monies; bids; eligible
33 depositories; surety bonds and collateral;
34 restrictions

35 A. The state treasurer shall invest ~~operating~~ TREASURY monies in
36 securities and deposits as provided in this section. The state treasurer
37 shall offer eligible Arizona depositories the opportunity to bid
38 competitively on available operating monies. ~~Eligible~~ Investments that may
39 be purchased from eligible Arizona depositories include:

40 1. Certificates of deposit.

41 2. Repurchase agreements.

42 3. Interest bearing savings accounts.

43 B. All ~~operating~~ TREASURY monies investments shall be purchased from
44 the eligible Arizona depository making the highest bid ~~on one million dollars~~

1 ~~or more.~~ The state treasurer may not award funds to eligible Arizona
2 depositories at a rate less than that available on those securities of a
3 similar maturity listed in section 35-313.

4 ~~G. An eligible depository is not eligible to receive total aggregate~~
5 ~~deposits from the state and all its subdivisions in an amount exceeding twice~~
6 ~~its capital structure as outlined in the last call of condition of the~~
7 ~~superintendent of banks.~~

8 ~~D.~~ C. If two or more eligible Arizona depositories submit bids of an
9 identical rate of interest for all or any portion of the monies to be
10 invested, the award of the monies shall be divided equally among those
11 depositories IF NONE OF THE ELIGIBLE DEPOSITORIES AGREES TO RAISE ITS BID.

12 ~~E.~~ D. Each bid submitted, and not withdrawn prior to the time
13 specified, constitutes an irrevocable offer to pay interest as specified in
14 the bid on the deposit, or portion bid for, and the award of a deposit in
15 accordance with this section obligates the depository to accept the deposit
16 and pay interest as specified in the bid pursuant to which the deposit is
17 awarded.

18 ~~F.~~ E. The state treasurer shall maintain a record of all bids
19 received and shall make available to the state board of deposit and the
20 public a correct list showing the bidders, the bids received and the amount
21 awarded. These records shall be kept in the possession of the state treasurer
22 for not less than two years from the date of the bid.

23 ~~G.~~ F. Any eligible Arizona depository that receives an investment or
24 any deposit of treasury monies in excess of the amount insured by an
25 instrumentality of the United States shall collateralize those deposits with
26 any of the following:

27 1. ~~A bond executed by a surety company approved by the treasury~~
28 ~~department of the United States and authorized to do business in this state,~~
29 ~~approved as to form by the legal advisor of the officer making the deposit,~~
30 ~~in a penal sum of not less than the amount of the deposit.~~

31 2. ~~Securities of the following character:~~

32 ~~(a) 1. Securities listed in section 35-313, subsection A, paragraphs~~
33 ~~1, 3, 4 and 5.~~

34 ~~(b) Registered warrants of this state.~~

35 ~~(c) First mortgages and trust deeds together with the promissory notes~~
36 ~~or other evidences of indebtedness described in such instruments on improved,~~
37 ~~unencumbered real estate located in this state, if no single mortgage or~~
38 ~~trust deed represents more than ten per cent of the total collateral~~
39 ~~security. The state treasurer may require that the mortgages or trust deeds~~
40 ~~comprising the total collateral security be in an amount twice the amount the~~
41 ~~eligible public depository receives on deposit. Such first mortgages or~~
42 ~~trust deeds qualify as security subject to the following limitations:~~

1 ~~(i) The promissory note or other evidences of indebtedness secured by~~
2 ~~such mortgage or trust deed shall have been in existence for at least three~~
3 ~~years and shall not have been in default during this period.~~

4 ~~(ii) An eligible Arizona depository shall at its own expense execute,~~
5 ~~deposit with the state treasurer and record with the appropriate county~~
6 ~~recorder a complete sale and assignment with recourse in a form approved by~~
7 ~~the attorney general, together with an unconditional assumption of obligation~~
8 ~~to promptly pay to the state treasurer monies in its custody upon lawful~~
9 ~~demand and tender of resale and assignment.~~

10 2. STATE TREASURER'S WARRANT NOTES.

11 3. The safekeeping receipt of a federal reserve bank, ~~the federal home~~
12 ~~loan bank,~~ or any bank located in a reserve city, or any bank authorized to
13 do business in this state, whose combined capital, surplus and outstanding
14 capital notes and debentures on the date of the safekeeping receipt are ~~ten~~
15 ONE HUNDRED million dollars or more, evidencing the deposit therein of any
16 securities or instruments described in this section. A safekeeping receipt
17 shall not qualify as security, if issued by a bank to secure its own public
18 deposits, unless issued directly through its trust department. The
19 safekeeping receipt shall show upon its face that it is issued for the
20 account of the state treasurer and shall be delivered to the state treasurer.

21 ~~H.~~ G. The securities, warrants or safekeeping receipt for those items
22 shall be accepted at market value equal to one hundred two per cent of the
23 deposit liability to the state treasurer, and, if at any time their market
24 value becomes less than one hundred two per cent of the deposit liability to
25 the state treasurer, additional items required to guarantee deposits shall
26 be deposited immediately with the state treasurer by the eligible ~~Arizona~~
27 depository. When items pledged as collateral mature or are called for
28 redemption, the cash received for the item shall be held in place of the
29 items until the eligible ~~Arizona~~ depository has obtained a written release
30 or provided substitute securities, instruments or warrants.

31 ~~I.~~ H. ~~The condition of the surety bond, or~~ The deposit of securities,
32 warrants or a safekeeping receipt, ~~—~~ must be such that the eligible ~~Arizona~~
33 depository will promptly pay to the state treasurer monies in its custody,
34 upon lawful demand, and will, when required by law, pay the monies to the
35 state treasurer.

36 ~~J.~~ I. ~~The surety bond,~~ securities, warrants or safekeeping receipt
37 of an eligible depository shall be deposited with the state treasurer and he
38 shall be the custodian of those items. The state treasurer may then deposit
39 with the eligible ~~Arizona~~ depository monies then in his possession in
40 accordance with this article.

41 ~~K.~~ J. Eligible ~~Arizona~~ depositories shall report to the state
42 treasurer monthly and upon demand the par and market value of any pledged
43 collateral and the total deposits of the state treasurer.

1 ~~L~~. K. ~~Operating~~ TREASURY monies not awarded under subsection A of
2 this section may be invested in those items listed in section 35-313.

3 Sec. 4. Section 35-313, Arizona Revised Statutes, is amended to read:
4 35-313. Investment of trust monies

5 The state treasurer shall invest and reinvest trust monies in any of
6 the following items:

7 1. Obligations issued or guaranteed by the United States or any of its
8 agencies, sponsored agencies, corporations, sponsored corporations or
9 instrumentalities.

10 2. Collateralized repurchase agreements purchased from securities
11 dealers that make markets in those securities listed in paragraph 1 of this
12 section.

13 3. Bonds or other evidences of indebtedness of this state or any of
14 the counties or incorporated cities, towns or duly organized school
15 districts.

16 4. Bonds, notes or OTHER evidences of indebtedness of any county,
17 municipal or municipal district utility within this state which are payable
18 from revenues or earnings specifically pledged for the payment of the
19 principal and interest on the obligations, and for the payment of which a
20 lawful sinking fund or reserve fund has been established and is being
21 maintained, but only if no default in payment on principal or interest on the
22 obligations to be purchased has occurred within five years of the date of
23 investment, or if such obligations were issued less than five years prior to
24 the date of investment, no default in payment of principal or interest has
25 occurred on the obligations to be purchased nor any other obligations of the
26 issuer within five years of the investment.

27 5. Bonds, notes or OTHER evidences of indebtedness issued by any
28 municipal improvement district in this state to finance local improvements
29 authorized by law, if the principal and interest of the obligations are
30 payable from assessments on real property within the local improvement
31 district. An investment shall not be made if the face value of all such
32 obligations, and similar obligations outstanding, exceeds fifty per cent of
33 market value of the real property, and improvements upon which the bonds or
34 the assessments for the payment of principal and interest on the bonds are
35 liens inferior only to the liens for general ad valorem taxes. An investment
36 shall not be made if a default in payment of principal or interest on the
37 obligations to be purchased has occurred within five years of the date of
38 investment, or, if the obligations were issued less than five years prior to
39 the date of investment, a default in payment of principal or interest has
40 occurred on the obligations to be purchased or on any other obligation of the
41 issuer within five years of the investment.

42 6. Commercial paper of prime quality as determined by Moody's
43 investors service or its successor.

1 7. Bills of exchange or time drafts known as bankers acceptances which
2 are drawn on and accepted by a commercial bank.

3 8. Negotiable certificates of deposit issued by a nationally or state
4 chartered bank or savings and loan association.

5 9. Bonds, debentures, ~~and~~ notes OR OTHER EVIDENCES OF INDEBTEDNESS
6 WHICH ARE issued by ~~corporations~~ ENTITIES organized and doing business in the
7 United States AND which carry as a minimum one of the Baa ratings of Moody's
8 investors service or one of the BBB ratings of Standard and Poor's rating
9 service or their successors.

10 10. Securities of or any other interests in any open-end or closed-end
11 management type investment company or investment trust registered under the
12 investment company act of 1940 (54 Stat. 789; 15 United States Code sections
13 80a-1 through 80a-64), as amended, if all of the following apply:

14 (a) The portfolio of the investment company or investment trust is
15 limited to obligations issued or guaranteed by the United States and
16 repurchase agreements fully collateralized by such United States government
17 obligations.

18 (b) The investment company or investment trust takes delivery of the
19 collateral for any repurchase agreement either directly or through an
20 authorized custodian.

21 (c) The investment policy of the investment company or investment
22 trust includes seeking to maintain a constant share price.

23 11. Any of the investments authorized by section 35-312.

24 Sec. 5. Section 35-314, Arizona Revised Statutes, is amended to read:

25 35-314. Permanent endowment funds; loan of securities; sale of
26 securities

27 A. The state treasurer shall invest and reinvest monies of the
28 permanent endowment funds in any of the investments authorized by sections
29 35-312 and 35-313.

30 B. Securities owned by the permanent endowment funds may be loaned to
31 the financial or dealer community if securities specified in subsection A of
32 this section are transferred to the state treasurer as collateral with market
33 value from one hundred two per cent to one hundred ten per cent as
34 established from time to time by the board of deposit of the par value of the
35 securities loaned. The securities used as collateral shall be "valued as to
36 market value" weekly, and if necessary the borrower shall post additional
37 collateral to insure that the excess margin is maintained.

38 C. ~~Permanent endowment securities may be sold at a price below par or~~
39 ~~cost if the proceeds of the sale are reinvested in securities whose~~
40 ~~incremental yield will recover the dollar loss on the old securities. The~~
41 ~~recovery period is from the time of sale until the shorter of the maturities~~
42 ~~of the sold securities or purchased securities~~ BOOK VALUE, AND ANY LOSS SHALL
43 BE CHARGED AGAINST EARNINGS RECEIVED FROM INTEREST OR CAPITAL GAINS ON THE
44 APPLICABLE PERMANENT ENDOWMENT FUND.

1 Sec. 6. Section 35-315, Arizona Revised Statutes, is amended to read:

2 35-315. Servicing banks; qualifications; list; bids

3 ~~A. Only corporations authorized to engage in the banking business as~~
4 ~~provided in section 6-201 are eligible to become the servicing bank of this~~
5 ~~state.~~

6 ~~B.~~ A. Any bank eligible to become an eligible ~~Arizona~~ depository
7 having a total capital structure of ten million dollars or more and assets
8 of ~~one~~ TWO hundred million dollars or more and being otherwise in a sound
9 condition, is eligible to be the servicing bank for the state.

10 ~~C.~~ B. The superintendent of banks shall regularly furnish to the
11 state treasurer and keep current a list of banks qualified to be the state
12 servicing bank. On the first Monday in April of each year of award, the
13 state board of deposit shall in writing notify each of the banks qualified
14 to be a servicing bank of the time and place at which servicing bids will be
15 received. Notification of bids shall clearly specify all services required
16 to be performed by the servicing bank. The servicing bid submitted shall be
17 the ~~sum of dollars~~ COMPENSATION for which the qualified bank will agree to
18 perform the required services as a servicing bank for the ensuing period of
19 designation as established by the board of deposit. The award shall be made
20 for a period not to exceed five years and may be paid from general fund
21 interest earnings according to rules ~~promulgated~~ ADOPTED by the board of
22 deposit.

23 ~~D.~~ C. On the fourth Monday in April of the year of the award, the
24 state treasurer shall receive the servicing bids in writing. Only those bids
25 which conform to the specifications set forth in the notification of bids
26 shall be considered. The qualified bank representing the lowest bid shall
27 be designated as the servicing bank. Designations shall be evidenced by the
28 signing of the notification of bid by the state treasurer, THE BOARD OF
29 DEPOSIT and the designee bank. If there are identical low bids, the state
30 treasurer shall determine by lot which of the identical low bidders shall be
31 the designee. The state treasurer may maintain a bank account in conjunction
32 with the servicing bank account, which must have on deposit at all times a
33 sum of money approximating the average dollar value of daily warrants paid
34 by the bank the previous month. The balance shall be established by the
35 state board of deposit.

36 ~~E.~~ D. The state treasurer may request and qualified banks may submit
37 bids for any or all of the services required. The state treasurer may
38 specify differing contract periods for any or all of the services required.

39 ~~F.~~ E. The state treasurer or servicing bank may terminate a servicing
40 bank contract at any time after sixty days' prior written notice is given.

41 ~~G.~~ F. In addition to the services required of the servicing bank, the
42 state treasurer shall contract for all other banking services required by any
43 state agency. No state agency shall contract for banking services except
44 with the written permission of the state treasurer.

1 ~~H~~ G. This section does not require the state treasurer to utilize
2 a servicing bank.

3 ~~I~~ H. This section or the specifications set forth in the
4 notification of bids shall not be construed to require the servicing bank to
5 purchase warrants.

6 ~~J~~ I. Deposits and withdrawals of monies shall be made by the state
7 treasurer through direct deposit and withdrawal on the servicing bank.

8 Sec. 7. Section 35-317, Arizona Revised Statutes, is amended to read:

9 35-317. State treasurer; duties; safekeeping of securities;
10 interest; exemptions; responsibilities

11 A. The state treasurer is responsible for the safekeeping of all
12 securities acquired by him under this article and those for which he is the
13 lawful custodian. Securities may be deposited for safekeeping with any bank
14 eligible to be the state servicing bank pursuant to section ~~35-315~~ 35-315 or
15 any trust company or trust department of any bank ~~which has this state as its~~
16 ~~principal place of business and is~~ qualified to do business in this state.

17 B. The state treasurer may at the expense of the state enter into an
18 agreement with any of those entities listed in subsection A of this section
19 for the safekeeping and handling of securities. The agreement shall be
20 entered into under terms and conditions which secure the proper safeguarding,
21 inventory, withdrawal and handling of the securities. Access to deposits or
22 withdrawals of the securities from any place of deposit selected by the
23 officers shall not be permitted or made except as the terms of the agreement
24 provide. The agreement need not require that securities be physically
25 located in this state, if the securities are represented by safekeeping
26 receipts issued for the account of the state treasurer by a federal reserve
27 bank or any bank located in a reserve city whose combined capital and surplus
28 on the date of the safekeeping receipt is ten million dollars or more.

29 C. The state treasurer shall regularly account for, itemize and
30 inventory according to general public fund accounting practices all
31 securities coming lawfully into his possession. Such practice shall be
32 audited by the auditor general at the time of the regular audit as prescribed
33 by law.

34 D. When securities acquired under this article mature and become due
35 and payable, the state treasurer shall present them for payment according to
36 their terms and collect the monies payable on them. The monies collected
37 shall be treated as treasury monies subject to reinvestment under the
38 appropriate section of this article.

39 E. Interest and appreciation realized on any investment authorized by
40 this article shall be collected by the state treasurer and credited by him
41 in accordance with general public fund accounting practices.

42 F. All interest realized on any investment of treasury monies not
43 otherwise apportioned by law shall be credited to the general fund of this
44 state.

1 G. The investment of treasury monies as provided in this article is
2 exempt from the provisions of section 35-142, subsection B, AND sections
3 35-154, 35-181.01, 35-181.02, 35-182 through 35-185, 35-185.01, 35-185.02,
4 35-186 THROUGH 35-192, 35-192.01, 35-192.02, 35-193, 35-193.02 and 41-732.

5 H. The state treasurer is responsible for the safekeeping, management
6 and disbursement of any investment made and any interest received in
7 compliance with this article.

APPROVED BY THE GOVERNOR APRIL 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 1, 1996