

CHAPTER 252

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 22-1146

BY REPRESENTATIVE(S) Larson and McCluskie, Herod, Kipp, Bennett, Bird, Boesenecker, Duran, Esgar, Exum, Hooton, Jodeh, Kennedy, Lindsay, Lontine, McCormick, McLachlan, Michaelson Jenet, Ricks, Sirota, Titone, Valdez A., Valdez D., Van Beber, Weissman, Woodrow, Young;
 also SENATOR(S) Lundeen and Kirkmeyer, Bridges, Coleman, Zenzinger, Buckner, Cooke, Coram, Ginal, Holbert, Kolker, Pettersen, Priola, Scott, Simpson, Smallwood, Sonnenberg, Woodward.

AN ACT**CONCERNING THE INVESTMENT OF MONEY IN THE PUBLIC SCHOOL FUND.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 22-41-102.5, **amend** (2) and (4)(a)(III); and **add** (6) as follows:

22-41-102.5. Public school fund investment board - creation - working group - report - repeal. (2) (a) Except for the state treasurer, members of the board serve two-year terms and may not serve more than three consecutive terms, and none of the board members, except for the treasurer, may hold any state elective office. The state board of land commissioners or the state treasurer may remove their appointed members for any cause that renders the member incapable of discharging or unfit to discharge ~~his or her~~ THE MEMBER'S duty to the board. The state board of land commissioners or the state treasurer may fill any vacancy by appointment, and such appointment must be made no later than ninety days after the date of the vacancy. A member appointed to fill a vacancy serves until the expiration of the term for which the vacancy was filled. Members of the board serve without compensation but may receive reimbursement for travel and other necessary expenses actually incurred in the performance of their duties. The reimbursements are paid from the interest and income earned on the deposit and investment of the public school fund subject to the requirements set forth in section 22-41-102.

(b) BEGINNING WITH THE STATE TREASURER'S APPOINTMENTS TO THE BOARD TO REPLACE EXISTING BOARD MEMBERS WHOSE FINAL TERMS EXPIRE ON OR AFTER JULY 1, 2022, THE STATE TREASURER MAY STAGGER THE TERMS OF NEWLY APPOINTED

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

BOARD MEMBERS TO ENSURE THAT THE TERMS OF NO MORE THAN TWO OF THE STATE TREASURER'S THREE APPOINTMENTS TO THE BOARD EXPIRE IN THE SAME YEAR. IN THE STATE TREASURER'S DISCRETION, THE FIRST THREE NEW MEMBERS APPOINTED BY THE STATE TREASURER ON OR AFTER JULY 1, 2022, MAY SERVE AN INITIAL TERM OF BETWEEN ONE AND THREE YEARS, AS DETERMINED BY THE STATE TREASURER. AFTER THE INITIAL TERM, THE MEMBERS SERVE TWO-YEAR TERMS FOR A TOTAL OF THREE CONSECUTIVE TERMS, AS SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION.

(4) (a) No later than March 31, 2017, the board shall establish policies that are necessary and proper for the administration of this section, including but not limited to:

(III) Recommendations to the general assembly regarding the distribution of income and interest described in section 22-41-102 ~~(3)(f)(IV) and (3)(g)(IV)~~ (3)(h)(IV).

(6) (a) THE STATE TREASURER SHALL CONVENE A WORKING GROUP TO CONSIDER OPPORTUNITIES TO IMPROVE THE GROWTH OF THE PUBLIC SCHOOL FUND AND ITS DISTRIBUTIONS FOR THE INTERGENERATIONAL BENEFIT OF PUBLIC SCHOOLS.

(b) THE STATE TREASURER, IN CONSULTATION WITH THE BOARD, SHALL SELECT THE MEMBERS OF THE WORKING GROUP, WHICH MAY INCLUDE:

(I) MEMBERS WITH INVESTMENT MANAGEMENT EXPERTISE, INCLUDING KNOWLEDGE OF LONG-TERM ENDOWMENT INVESTMENT AND SPENDING POLICIES;

(II) MEMBERS WITH TAX EXPERTISE, INCLUDING KNOWLEDGE RELATING TO FUNDING SOURCES FOR CURRENT AND FUTURE CERTIFICATE OF PARTICIPATION AGREEMENTS FOR PUBLIC SCHOOL CAPITAL CONSTRUCTION;

(III) MEMBERS WITH LEGAL EXPERTISE, INCLUDING KNOWLEDGE OF THE COLORADO CONSTITUTION AND STATUTES GOVERNING THE ISSUES STUDIED BY THE WORKING GROUP;

(IV) MEMBERS WITH OTHER RELEVANT EXPERTISE, AS DETERMINED BY THE STATE TREASURER; AND

(V) MEMBERS WHO REPRESENT INTERESTS SERVED THROUGH REVENUE FROM STATE SCHOOL TRUST LANDS OR INTEREST AND INCOME FROM THE PUBLIC SCHOOL FUND.

(c) THE WORKING GROUP SHALL CONSIDER:

(I) THE DISTRIBUTION OF REVENUE FROM STATE SCHOOL TRUST LANDS;

(II) INVESTMENT OPPORTUNITIES TO INCREASE GROWTH AND INCOME EARNED ON MONEY IN THE PUBLIC SCHOOL FUND;

(III) THE DISTRIBUTION OF INTEREST AND INCOME FROM THE PUBLIC SCHOOL FUND AND WAYS TO CREATE A MORE SUSTAINABLE, LONG-TERM DISTRIBUTION POLICY;

(IV) POLICIES TO INCREASE THE PRINCIPAL OF THE PUBLIC SCHOOL FUND;

(V) THE IMPACT OF COLORADO CONSTITUTIONAL AND STATUTORY PROVISIONS ON THE INVESTMENT OF MONEY IN THE PUBLIC SCHOOL FUND, INCLUDING PROVISIONS RELATING TO CERTIFICATE OF PARTICIPATION AGREEMENTS; AND

(VI) ANY OTHER ISSUES, AS DETERMINED BY THE STATE TREASURER.

(d) NOT LATER THAN FEBRUARY 28, 2023, THE STATE TREASURER SHALL REPORT TO THE JOINT BUDGET COMMITTEE AND TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, CONCERNING THE ISSUES CONSIDERED BY THE WORKING GROUP, THE FINDINGS AND RECOMMENDATIONS OF THE WORKING GROUP, AND ANY NECESSARY CHANGES TO COLORADO LAW TO IMPLEMENT RECOMMENDATIONS OF THE WORKING GROUP.

(e) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2023.

SECTION 2. In Colorado Revised Statutes, 22-41-104, **amend** (2) as follows:

22-41-104. Lawful investments. (2) The state treasurer has authority, to be exercised at the state treasurer's discretion, to effect exchanges or sales whenever such exchanges or sales will not result in an aggregate loss of principal to the public school fund. An aggregate loss of principal to the public school fund occurs only when an exchange or sale that resulted in an initial loss of principal is not offset by a gain on an exchange or sale in the fund within ~~twelve~~ EIGHTEEN months. THE CALCULATION OF AN AGGREGATE LOSS MUST ALSO INCLUDE ANY GAINS THAT WERE REALIZED IN THE TWELVE MONTHS PRIOR TO THE LOSS OF PRINCIPAL.

SECTION 3. In Colorado Revised Statutes, 22-41-102, **amend** (3)(g) introductory portion; and **add** (3)(h) as follows:

22-41-102. Fund inviolate. (3) (g) For the 2019-20 state fiscal year, ~~and each state fiscal year thereafter~~ YEAR THROUGH THE 2021-22 STATE FISCAL YEAR, interest or income earned on the investment of the ~~moneys~~ MONEY in the public school fund must be used or credited in the following order:

(h) FOR THE 2022-23 STATE FISCAL YEAR, AND EACH STATE FISCAL YEAR THEREAFTER, INTEREST OR INCOME EARNED ON THE INVESTMENT OF THE MONEY IN THE PUBLIC SCHOOL FUND MUST BE USED OR CREDITED AS FOLLOWS:

(I) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE TO THE STATE TREASURER AN AMOUNT NECESSARY TO PAY FOR THE SERVICES OF THE INVESTMENT CONSULTANT HIRED BY THE PUBLIC SCHOOL FUND INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (5) AND TO PAY FOR ANY REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES INCURRED BY THE MEMBERS OF THE PUBLIC SCHOOL FUND INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (2);

(II) AFTER THE APPROPRIATION MADE PURSUANT TO SUBSECTION (3)(h)(I) OF THIS SECTION, ALL REMAINING INTEREST AND INCOME, NOT TO EXCEED TWENTY-ONE MILLION DOLLARS, SHALL BE CREDITED TO THE STATE PUBLIC SCHOOL FUND

CREATED IN SECTION 22-54-114 FOR DISTRIBUTION AS PROVIDED IN THAT SECTION;

(III) AFTER MONEY IN THE PUBLIC SCHOOL FUND HAS BEEN APPROPRIATED OR CREDITED PURSUANT TO SUBSECTIONS (3)(h)(I) AND (3)(h)(II) OF THIS SECTION, ALL REMAINING INTEREST AND INCOME, NOT TO EXCEED TWENTY MILLION DOLLARS, SHALL BE CREDITED TO THE RESTRICTED ACCOUNT OF THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND, WHICH ACCOUNT IS CREATED IN SECTION 22-43.7-104 (5), FOR USE AS PROVIDED IN THAT SECTION; AND

(IV) ANY ADDITIONAL INTEREST AND INCOME REMAINING IN THE PUBLIC SCHOOL FUND MAY BE CREDITED AS SPECIFIED BY THE GENERAL ASSEMBLY, TAKING INTO CONSIDERATION THE RECOMMENDATIONS OF THE PUBLIC SCHOOL FUND INVESTMENT BOARD DESCRIBED IN SECTION 22-41-102.5 (4)(a)(III), OR, IF NOT CREDITED PURSUANT TO THIS SUBSECTION (3)(h)(IV), REMAINS IN THE PUBLIC SCHOOL FUND.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 26, 2022