

CHAPTER 328

GOVERNMENT - STATE

HOUSE BILL 14-1391

BY REPRESENTATIVE(S) Becker and Priola, Court, Hullinghorst, Kagan;
also SENATOR(S) Kerr and Hill, Newell, Schwartz.

AN ACT

**CONCERNING THE AUTHORITY OF THE TREASURER OF A PUBLIC GOVERNMENTAL ENTITY TO MAKE
PAYMENTS BY MEANS OF A CHECK.**

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

SECTION 1. In Colorado Revised Statutes, **amend** 23-20-108 as follows:

23-20-108. Secretary - duties. The board of regents shall elect a secretary, who shall hold the office during the pleasure of the board. The secretary shall record all the proceedings of the board of regents in a visual text format that may be transmitted electronically and carefully preserve all its books and papers. The secretary's books shall show how the permanent fund of the university has been invested; the amount of each kind of securities, if any, with the date thereof, and when due; the interest thereon, and when and where payable; the amount of each loan, if any, when made and payable to whom, how secured, at what rate of interest, and when and where payable. The secretary shall countersign and register all warrants ~~for money on the treasurer~~ AND CHECKS. The treasurer shall not pay a warrant OR A CHECK for money unless the same is drawn by the president and countersigned by the secretary.

SECTION 2. In Colorado Revised Statutes, **amend** 23-20-109 as follows:

23-20-109. Treasurer - duties - bond. The board of regents shall elect a treasurer of the university, who shall hold his OR HER office at the pleasure of the board. ~~He~~ THE TREASURER shall keep a true and faithful account of all moneys received and paid out by him OR HER and shall pay all warrants ~~in the order of presentation~~ AND CHECKS AS PRESENTED. Before entering upon the duties of his OR HER office, he OR SHE shall take and subscribe an oath that he OR SHE will faithfully perform the duties of treasurer. He OR SHE shall also give a bond in the penal sum

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

of not less than twenty-five thousand dollars, conditioned for the faithful discharge of his OR HER duties as treasurer; that he OR SHE will at all times keep and render a true account of all moneys and other valuables received by him OR HER as treasurer and of the disposition he OR SHE has made of the same; and that he OR SHE will at all times be ready to discharge himself OR HERSELF of the trust and to deliver up when required by said board all moneys, notes, bonds, and other valuables entrusted to him OR HER. The bond shall have two or more sureties and be approved as to its form and the sufficiency of its sureties by the board of regents, the attorney general, and the secretary of state, who shall endorse their approval on the same. The bond shall be filed in the office of the secretary of state.

SECTION 3. In Colorado Revised Statutes, **amend 23-20-116** as follows:

23-20-116. Claims against university. Except with respect to claims coming within the provisions of article 10 of title 24, C.R.S., the board of regents shall audit all claims against the university, and the president shall draw all warrants ~~upon the treasurer~~ AND CHECKS for approved claims; but before payment such warrants AND CHECKS shall be countersigned by the secretary, who shall keep a specific and complete record of all matters involving the expenditure of money, which record shall be submitted to the board of regents at each regular meeting of the same.

SECTION 4. In Colorado Revised Statutes, **amend 24-22-109** as follows:

24-22-109. Willful refusal to pay warrant or check - penalty. If the state treasurer willfully refuses to pay any warrant OR ANY CHECK lawfully drawn upon him OR HER, he OR SHE shall forfeit and pay to the holder thereof four times the amount thereof, which forfeiture may be recovered by action of debt against him OR HER and the sureties on his OR HER official bond, or otherwise according to law, and he OR SHE is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than one year.

SECTION 5. In Colorado Revised Statutes, 24-30-201, **amend (1)(i)** as follows:

24-30-201. Accounts and control - controller. (1) The powers, duties, and functions concerning accounts and control as set forth in this part 2 shall be the responsibility of the state controller. The controller shall be appointed by the executive director of the department of personnel, subject to the provisions of section 13 of article XII of the state constitution. The controller shall be bonded in such amount as the executive director shall fix. The powers and duties of the controller shall be:

(i) To issue warrants AND CHECKS for the payment of claims against the state;

SECTION 6. In Colorado Revised Statutes, 24-30-202, **amend (6), (7), (8), (8.5), (9), (14), and (20.1)** as follows:

24-30-202. Procedures - vouchers, warrants, and checks - rules - penalties. (6) The controller shall prescribe the form of warrants AND CHECKS to be drawn upon the state treasurer. All warrants AND CHECKS for approved expenditures and claims shall be drawn and issued under direction of the controller or his OR HER authorized agent and transmitted to the department of the treasury to be recorded.

(7) Each warrant AND CHECK drawn and issued shall be signed by the controller and countersigned by the state treasurer. Facsimiles of such signature and countersignature may be affixed by a mechanical device. The signature of the controller on a warrant OR CHECK, however affixed, shall constitute full and complete authority to the state treasurer to pay the amount thereof upon presentation to him OR HER.

(8) Each warrant OR CHECK drawn and issued shall bear a notation clearly printed in a prominent position upon its face stating that it shall be void after six months from its date of issue. Upon satisfactory proof furnished of loss or destruction, during said six-month period, of any warrant OR CHECK drawn and issued in payment of an approved expenditure or claim, the controller shall cause a duplicate of such lost or destroyed warrant OR CHECK to be drawn and issued in favor of the original payee or his or her assignee, as the case may be. The issuing state agency shall thereupon void said original warrant OR CHECK, and, if it thereafter is presented for payment, the state treasurer shall refuse payment thereof.

(8.5) Any other provision of law to the contrary notwithstanding, the controller may, after adequate notification to the state treasurer, make payment by means of an electronic fund transfer. Payment by electronic fund transfer shall be in lieu of payment by state warrant OR CHECK and shall discharge the controller's obligation with respect to payment. Any unauthorized use of the electronic fund transfer capability shall be reported to the controller within twenty-four hours after occurrence or disclosure becomes known. Immediately upon discovery of unauthorized use, measures ~~which~~ THAT will prevent further unauthorized use shall be implemented.

(9) (a) During the month of May of each year, a list of all warrants AND CHECKS drawn and issued during the last completed fiscal year that have not then been presented to the state treasurer for payment shall be posted in a conspicuous place in the offices of the controller and the state treasurer. Such list shall recite the number, date of issue, name of payee, and amount of each such warrant AND CHECK. Every warrant AND CHECK so listed that shall remain unpaid on the last working day in the month of June of each year shall be scheduled for cancellation as of said date and expunged from the records of the controller and the state treasurer, and the amount thereof shall be credited to the general fund or, if practicable, to the account to which originally charged; except that the amount of any warrant OR CHECK drawn on the wildlife cash fund created in section 33-1-112 (1), C.R.S., other than a warrant OR CHECK refunding a license fee submitted as part of an unsuccessful limited license application, shall be credited to said fund.

(b) If at any time thereafter application is made to the controller for reissuance of any warrant ~~which~~ OR CHECK THAT has been cancelled and expunged from the records and it appears that the expenditure or claim ~~which~~ THAT the cancelled warrant OR CHECK represented is still valid and unpaid, the controller shall issue a new warrant OR CHECK, and the amount thereof shall be charged to the fund or account to which the amount of the cancelled warrant OR CHECK was previously credited.

(c) In the event of any conflict between this subsection (9) and any provision of the "Unclaimed Property Act", article 13 of title 38, C.R.S., the provisions of the

"Unclaimed Property Act" shall control; except that this subsection (9) shall control with regard to:

(I) A tax warrant OR CHECK;

(II) Repealed.

(III) That portion of a warrant OR CHECK representing moneys received from the federal government;

(IV) A warrant OR CHECK drawn on the wildlife cash fund created in section 33-1-112 (1), C.R.S., other than a warrant OR CHECK refunding a license fee submitted as part of an unsuccessful limited license application.

(d) Notwithstanding any provision of this subsection (9) to the contrary, the provisions of this subsection (9) shall not apply to any warrant OR CHECK drawn by an institution of higher education or by the Auraria higher education center that is exempt from the state fiscal rules pursuant to paragraph (b) of subsection (13) of this section.

(14) If the controller or any other state employee knowingly draws or issues any warrant OR CHECK upon the state treasurer not authorized by law, he OR SHE is guilty of a misdemeanor in office and, upon conviction thereof, shall be punished by a fine of a sum four-fold the amount of such warrant OR CHECK, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

(20.1) The controller, or the controller's designee, is hereby authorized, upon written request made to the controller, to allow any state department, institution, or agency to draw upon its appropriation a sum set by fiscal rule promulgated by the controller, which fiscal rule may not authorize a sum in excess of two thousand five hundred dollars, and considered appropriate for the circumstances, to be used for the payment of incidental expenses. Items of postage, express, telegrams, and other incidental expenses may be paid from such moneys. At the end of each month, or as often as is practicable, the department, institution, or agency making such incidental expenditures shall submit a voucher to the controller covering the total amount of such expenditures and shall submit a list of all such expenditures, together with proper receipts, if any, and the controller shall draw the controller's warrant OR CHECK against the proper appropriation to cover all items of expenditures ~~which~~ THAT the controller approves. The controller is also authorized, upon the request of any state department, institution, or agency, to allow a reasonable advance of moneys to employees and officials for authorized travel on official state business not to exceed an amount set by fiscal rule promulgated by the controller.

SECTION 7. In Colorado Revised Statutes, 24-30-203, **amend** (1) as follows:

24-30-203. Refunds of money erroneously collected. (1) In all cases not otherwise provided for by specific statute, whenever any money not owed or belonging to the state of Colorado is collected or received by the state of Colorado through mistake either of law or of fact, upon proper showing made to the satisfaction of the head of the department of the state of Colorado ~~which~~ THAT

collected or received such money and upon proper voucher drawn by such department head and approved by the governor and controller, the controller is authorized to draw a warrant OR CHECK to refund such money to the person from whom it was collected or received. Such refund shall be made from the fund into which such money was deposited. No refund made under the authority of this section shall be made unless a claim therefor is filed within one year after such money is collected or received by the state of Colorado.

SECTION 8. In Colorado Revised Statutes, 24-36-104, **amend** (3) as follows:

24-36-104. Moneys to be deposited. (3) For the purpose of managing deposits of state moneys, the state treasurer may, on a daily basis only, borrow moneys from any such depository to cover advances made by any depository to the state on state warrants AND STATE CHECKS paid by the depository but not yet reimbursed by the state and on uncollected deposits. The state treasurer may negotiate a line of credit with any such depository sufficient to cover anticipated requirements for such advances in the current fiscal year. The state treasurer may pay interest on such moneys borrowed at a rate to be negotiated by the state treasurer and the lending depository and may take such measures as are necessary to implement the provisions of this subsection (3). All such moneys borrowed shall be repaid, together with any interest, before the end of the fiscal year in which the moneys are borrowed, and the state shall not be liable to repay such moneys borrowed from revenues of any later fiscal year. This subsection (3) shall not be construed to expressly or impliedly authorize the state treasurer to do any act or take any action with respect to deposits of state moneys, or with respect to the moneys of any department or agency of the state, other than the acts specifically authorized by this subsection (3). ~~The profitability of the procedure authorized in this subsection (3) shall be reported in the state treasurer's annual report for fiscal years 1981-82, 1982-83, 1983-84, and 1984-85.~~

SECTION 9. In Colorado Revised Statutes, **amend** 24-36-106 as follows:

24-36-106. Record of warrants and checks - order of payment - paid warrants and checks - validation. (1) The treasury department shall maintain a list of all warrants AND CHECKS drawn upon the state treasurer by the office of the state controller and of those warrants AND CHECKS issued and outstanding. Such lists shall be open during regular business hours for the inspection and examination of every person desiring to inspect or examine the same.

(2) Warrants AND CHECKS shall be paid in the order in which presented to the treasury department for payment. The state treasurer may validate any warrant OR ANY CHECK presented for payment after six months from its date of issue for a period of time not longer than thirty days from the date upon which it is so presented.

(3) All paid warrants AND CHECKS shall be cancelled and, after being microfilmed or copied through image technology such as optical storage and other recognized state-of-the-art storage technologies, shall be destroyed pursuant to part 1 of article 80 of this title. The treasury department is authorized to enter into an arrangement ~~which~~ THAT allows any bank holding cancelled warrants OR CHECKS to microfilm or copy through other recognized state-of-the-art storage technologies and to store

said warrants AND CHECKS for the benefit and use of the treasury department, but no bank shall destroy any cancelled warrant OR ANY CANCELLED CHECK without written authorization from the treasury department. Any bank producing microfilm or using other recognized state-of-the-art storage technologies pursuant to this subsection (3) shall transmit such microfilm or the product of such other recognized state-of-the-art storage technologies to the treasury department, where it shall be kept and stored. The treasury department is not authorized to enter into such an arrangement if the cost of the service charged by the bank exceeds the cost which the state would incur by providing the same service.

SECTION 10. In Colorado Revised Statutes, **amend** 24-36-107 as follows:

24-36-107. Warrants or checks endorsed when not paid - exception.

(1) Whenever upon presentation for payment of any issued and outstanding warrant OR ANY ISSUED AND OUTSTANDING CHECK there are insufficient funds in the state treasury to pay the same, the state treasurer shall endorse thereon the following: "Presented for payment (insert date). Insufficient funds. This warrant OR CHECK shall draw interest from this date at the rate of six percent per annum." and shall return such warrant OR CHECK to the person presenting it for payment.

(2) Noninterest-bearing general fund warrants AND CHECKS lawfully issued pursuant to the provisions of section 24-75-208 ~~shall be~~ ARE exempt from the provisions of this section.

SECTION 11. In Colorado Revised Statutes, **amend** 24-36-108 as follows:

24-36-108. Notice of payment - when interest ceases. (1) The treasury department shall maintain a record of the number and amount of each warrant AND EACH CHECK presented for payment and endorsed by the state treasurer as provided in section 24-36-107. Whenever there are sufficient moneys in the state treasury to pay part or all of such endorsed warrants AND CHECKS, the state treasurer shall give notice of the date of payment of the same through publication, twice, in some newspaper published in Denver, listing the numbers and amounts of the warrants ~~which~~ AND CHECKS THAT he OR SHE is prepared to pay on said date. Interest on the warrants AND CHECKS so listed shall cease at the expiration of fifteen days from the last date of publication of said notice.

(2) The state treasurer is authorized to pay interest on any such warrant AND ANY SUCH CHECK at the rate endorsed thereon out of any moneys in the state treasury to the credit of the general fund or such other fund out of which the warrant OR CHECK is payable and to charge the amount of interest so paid to such fund.

(3) Interest paid on any such warrant OR ANY SUCH CHECK shall be receipted for thereon by the payee or assignee thereof.

SECTION 12. In Colorado Revised Statutes, **amend** 24-36-115 as follows:

24-36-115. Moneys not immediately creditable - special purpose moneys.

Moneys received by the treasury department ~~which~~ THAT are not immediately creditable to a particular fund or account or moneys received ~~which~~ THAT are designated by law for a special purpose shall be held in custody by the state

treasurer and may be subsequently withdrawn from his OR HER custody upon warrants OR CHECKS drawn pursuant to law.

SECTION 13. In Colorado Revised Statutes, **amend** 24-36-117 as follows:

24-36-117. Governor may make examination. The governor may at any time examine, or cause to be examined, the books, records, ~~and~~ warrants, AND CHECKS kept in the treasury department and the securities held in the custody of the state treasurer, and for such purpose he OR SHE shall be permitted full and free access.

SECTION 14. In Colorado Revised Statutes, 24-36-120, **amend** (6) as follows:

24-36-120. Authority to assess transaction fees. (6) As used in this section, "eligible transaction" means any cash management transaction that affects a cash balance, including, but not limited to, electronic fund transfers, payroll and other automated disbursements, payments, cash receipts, warrant transactions, CHECK TRANSACTIONS, and journal entries.

SECTION 15. In Colorado Revised Statutes, 24-36-121, **amend** (3) (a) (I) introductory portion, (3) (a) (II), and (4) (a) (II) as follows:

24-36-121. Authority to manage state public financing - state public financing cash fund - rules - legislative declaration - definitions. (3) As used in this section, unless the context otherwise requires:

(a) (I) "Financial obligation" means any financial contract, note, warrant, CHECK, bond, certificate, instrument, debenture, or other security, the principal amount of which is one million dollars or more, that is authorized to be issued or entered into by the state acting by and through a state agency under the laws of this state, that is fully or partially secured by any state revenues, and that is directly or indirectly related to the state's credit rating. "Financial obligation" includes, but is not limited to:

(II) Notwithstanding subparagraph (I) of this paragraph (a), for purposes of the department of transportation, "financial obligation" does not include:

(A) Any financial contract, note, warrant, CHECK, bond, certificate, instrument, debenture, or other contract, agreement, or security that is authorized to be issued or entered into by or in support of such obligations of the high-performance transportation enterprise created in section 43-4-806 (2), C.R.S.; and

(B) Any financial contract, note, warrant, CHECK, bond, certificate, instrument, debenture, or other contract, agreement, or security that is authorized to be issued or entered into by or in support of such obligations of the statewide bridge enterprise created in section 43-4-805 (2), C.R.S.

(4) (a) (II) For a state institution of higher education, for the 2012-13 state fiscal year and each state fiscal year thereafter, the state treasurer shall act as the issuing manager, subject to the criteria established in the state public financing policy promulgated as specified in subsection (5) of this section, for any lease-purchase agreement similar to those authorized in section 23-1-106.3, C.R.S., and any

financial contract, note, warrant, CHECK, bond, certificate, instrument, debenture, or other security, the principal amount of which is one million dollars or more, that is authorized under the laws of this state to be issued or entered into by the state acting by and through a state agency other than a state institution of higher education and that finances improvements that benefit a state institution of higher education. The state treasurer has the sole discretion to manage the issuance or incurrence of such financial obligations for a state institution of higher education and shall manage the issuance or incurrence of such financial obligations in accordance with the duties set forth in sub-subparagraphs (A) to (E) of subparagraph (I) of this paragraph (a). The state treasurer shall not act as the issuing manager for any bonds subject to the higher education revenue bond intercept program established in section 23-5-139, C.R.S.

SECTION 16. In Colorado Revised Statutes, 24-75-202, **amend** (2) as follows:

24-75-202. Imprest cash accounts. (2) Under procedures prescribed by the controller, such department, institution, or agency may pay out of said imprest cash account, locally, such operating expense items as would be allowable if submitted on a regular voucher. The aggregate amount of such payments shall be submitted to the office of the state controller, monthly or more often, on a voucher signed by the fiscal officer of such department, institution, or agency or by some person authorized to act for him OR HER, and upon approval of the same, a warrant OR CHECK in said amount shall be drawn upon the state treasurer for replenishment of said imprest cash account.

SECTION 17. In Colorado Revised Statutes, **amend** 24-75-207 as follows:

24-75-207. Definitions. As used in sections 24-75-206 to 24-75-210, unless the context otherwise requires:

(1) "Noninterest bearing general fund warrants OR CHECKS" means any warrant OR CHECK issued against the general fund at a time when moneys accruing to the fund have not been received or credited to the general fund.

SECTION 18. In Colorado Revised Statutes, **amend** 24-75-208 as follows:

24-75-208. Investment of treasury funds. It is lawful for the state treasurer and it is the state treasurer's duty, whenever there are funds on hand or in the state treasurer's custody or possession eligible for investment, to invest in noninterest bearing general fund warrants OR CHECKS issued against the general fund at a time when moneys accruing to the fund have not been received or credited to the general fund, but such warrants OR CHECKS shall be drawn pursuant to appropriation made by the general assembly, and the controller shall first certify that appropriations do not exceed estimated general fund revenues and surplus.

SECTION 19. In Colorado Revised Statutes, **amend** 24-75-209 as follows:

24-75-209. Payment of general fund warrants or checks. The state treasurer shall pay such noninterest bearing general fund warrants OR CHECKS pursuant to section 24-36-106 (2).

SECTION 20. In Colorado Revised Statutes, 24-75-302, **amend** (1) (a) as follows:

24-75-302. Capital construction fund - capital assessment fees - calculation.

(1) (a) There is hereby created the capital construction fund to which shall be allocated such revenues as the general assembly may from time to time determine. Moneys in the capital construction fund may be appropriated for capital construction, as defined in section 24-75-301 (1), including the remodeling or renovation of existing buildings or other physical facilities designated as controlled maintenance projects in the general appropriation act; except that any moneys transferred to the capital construction fund for state highway reconstruction, repair, and maintenance projects may only be appropriated for such projects. The appropriation for such projects shall be set forth in a single line item as a total sum. All unappropriated balances in said fund at the close of any fiscal year shall remain therein and not revert to the general fund. All moneys unexpended or not encumbered from the capital construction fund appropriation to each department for any fiscal year shall revert to the capital construction fund at the end of the period for which such moneys are appropriated. Except as provided in sections 2-3-1304 (1) (a.5) and 24-30-1303.7 (1), C.R.S., no portion of the unexpended balance of a department's capital construction fund appropriation may be used by such department for any additional projects which are beyond the scope or design of the original project without further approval by the general assembly of such additional project. Anticipation warrants OR CHECKS may be issued against the revenues of the fund as provided by law. Except as provided in subsection (7) of this section, all interest earned from the investment of moneys in said fund shall remain in said fund and become a part thereof.

SECTION 21. In Colorado Revised Statutes, 24-75-605, **amend** (1) (a) as follows:

24-75-605. Legal investments - cities of twenty-five thousand or more population - limitation in class of investments. (1) Whenever cities having a population of twenty-five thousand or more, as determined by the last preceding federal decennial census, have moneys in policemen's or firefighters' pension funds, or other special funds of said cities, including pension, endowment, and trust funds, whether or not administered by a board or similar authority, it is lawful to invest or reinvest these moneys as set forth in this section if the authorization to invest moneys as provided in this section does not affect the administration of or control over the various funds, to wit:

(a) Class 1. Bonds, ~~or~~ warrants, OR CHECKS of the United States, the state of Colorado, or in the bonds of any other state of the United States;

SECTION 22. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2014