

SECURITY OF THE REVENUE

Footnotes

This chapter not enacted as a part of this title; transferred from chapter 452 in Code 1993

12B.1 Definitions.

As used in this chapter, unless the context otherwise requires, "*book*", "*list*", "*record*", or "*schedule*" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

Former §12B.1 transferred to §12B.1A

12B.1A County responsible to state.

Each county is responsible to the state for the full amount of tax levied for state purposes, excepting such amounts as are certified to be unavailable, double, or erroneous assessments.

[R60, § 793; C73, § 908; C97, § 1453; C24, 27, 31, 35, 39, § **7398**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.1]

C93, § 12B.1

C2001, §12B.1A

12B.2 Interest on warrants.

When interest is due and allowed by the treasurer of state on the redemption of state warrants, or by the county treasurer on the redemption of county warrants, the same shall be receipted on the warrants by the holder, with the date of the payment, and no interest shall be allowed by the department of administrative services or board of supervisors except such as is thus receipted.

[R60, § 795; C73, § 910; C97, § 1455; C24, 27, 31, 35, 39, § **7400**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.2]

C93, § 12B.2

2003 Acts, ch 145, §286

Footnotes

Analogous section, § 74.7

12B.3 Discounting warrants.

If the treasurer of state or any county treasurer, personally or through another, discounts the director of the department of administrative services' or auditor's warrants, either directly or indirectly, the treasurer shall be guilty of a serious misdemeanor.

[R60, § 796; C73, § 911; C97, § 1456; C24, 27, 31, 35, 39, § **7401**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.3]

C93, § 12B.3

2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §11

12B.4 Loans by county treasurer.

A county treasurer shall be guilty of a serious misdemeanor for loaning out, or in any manner using for private purposes, state, county, or other funds in the treasurer's hands.

[R60, § 797; C73, § 912; C97, § 1457; S13, § 1457; C24, 27, 31, 35, 39, § **7402**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.4]

C93, § 12B.4

12B.5 Loans by treasurer of state.

The treasurer of state shall be guilty of a serious misdemeanor for loaning out, or in any manner using for private purposes, state, county, or other funds in the treasurer's hands.

[R60, § 797; C73, § 912; C97, § 1457; S13, § 1457; C24, 27, 31, 35, 39, § **7403**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.5]

C93, § 12B.5

12B.6 Certain public funds of political subdivisions.

All funds received, expended, or held by an association of elected county officers before, on, or after June 16, 2005, to implement a state-authorized program, are subject to audit by the auditor of state at the request of the government oversight committees or the legislative council. All such funds received or held on and after July 1, 2005, shall be deposited in a fund in the office of the treasurer of state.

2005 Acts, ch 179, §98, 103; 2006 Acts, ch 1010, § 175, 177

12B.7 Settlement by retiring treasurer.

When a county treasurer goes out of office, the treasurer shall make a full and complete settlement with the board of supervisors, and deliver up all books, papers, moneys, and all other property pertaining to the office, to the treasurer's successor, taking a receipt therefor.

[R60, § 802; C73, § 917; C97, § 1461; C24, 27, 31, 35, 39, § **7409**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.7]

C93, § 12B.7

12B.8 Supervisors to report to state auditor.

The board of supervisors shall make a statement of state dues to the auditor of state, showing all charges against the treasurer during the treasurer's term of office, and all credits made, the delinquent taxes and other unfinished business charged over to the treasurer's successor, and the amount of money paid over to the treasurer's successor, showing to what year and to what account the amount so paid over belongs.

[R60, § 802; C73, § 917; C97, § 1461; C24, 27, 31, 35, 39, § **7410**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.8]

C93, § 12B.8

12B.9 Correct balances.

The board of supervisors shall also see that the books of the treasurer are correctly balanced before passing into the possession and control of the treasurer-elect.

[R60, § 802; C73, § 917; C97, § 1461; C24, 27, 31, 35, 39, § **7411**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.9]

C93, § 12B.9

12B.10 Public funds investment standards.

1. In addition to investment standards and requirements otherwise provided by law, the investment of public funds by the treasurer of state, state agencies authorized to invest funds, and political subdivisions of this state, shall comply with this section, except where otherwise provided by another statute specifically referring to this section.

The treasurer of state and the treasurer of each political subdivision shall at all times keep funds coming into their possession as public money in a vault or safe to be provided for that purpose or in one or more depositories approved pursuant to chapter 12C. However, the treasurer of state, state agencies authorized to invest public funds, and political subdivisions shall invest, unless otherwise provided, any public funds not currently needed in investments authorized by this section.

2. The treasurer of state, state agencies authorized to invest funds, and political subdivisions of this state, when investing or depositing public funds, shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the goals of this subsection. This standard requires that when making investment decisions, a public entity shall consider the role that the investment or deposit plays within the portfolio of assets of the public entity and the goals of this subsection. The primary goals of investment prudence shall be based in the following order of priority:

- a. Safety of principal is the first priority.
- b. Maintaining the necessary liquidity to match expected liabilities is the second priority.
- c. Obtaining a reasonable return is the third priority.

3. Investments of public funds shall be made in accordance with written policies. A written investment policy shall address the goals set out in subsection 2 and shall also address, but is not limited to, compliance with state law, diversification, maturity, quality, and capability of investment management.

The trading of securities in which any public funds are invested for the purpose of speculation and the realization of short-term trading profits is prohibited.

Investments by a political subdivision must have maturities that are consistent with the needs and use of that political subdivision or agency.

4. a. The treasurer of state and all other state agencies authorized to invest funds shall only purchase and

invest in the following:

- (1) Obligations of the United States government, its agencies, and instrumentalities.
- (2) Certificates of deposit and other evidences of deposit at federally insured depository institutions approved pursuant to chapter 12C.
- (3) Prime bankers' acceptances that mature within two hundred seventy days and that are eligible for purchase by a federal reserve bank, provided that at the time of purchase no more than thirty percent of the investment portfolio of the treasurer of state or any other state agency shall be in investments authorized by this subparagraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.
- (4) Commercial paper or other short-term corporate debt that matures within two hundred seventy days and that is rated within the two highest classifications, as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A, provided that at the time of purchase no more than five percent of all amounts invested in commercial paper and other short-term corporate debt shall be invested in paper and debt rated in the second highest classification, and provided further that at the time of purchase no more than thirty percent of the investment portfolio of the treasurer of state or any other state agency shall be in investments authorized by this subparagraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.
- (5) Repurchase agreements whose underlying collateral consists of the investments set out in subparagraphs (1) through (4) if the treasurer of state or state agency takes delivery of the collateral either directly or through an authorized custodian. Repurchase agreements do not include reverse repurchase agreements.
- (6) Investments authorized for the Iowa public employees' retirement system in section 97B.7A, except that investment in common stocks is not permitted.
- (7) An open-end management investment company organized in trust form registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7.
- (8) Investments authorized under subsection 7.

b. Futures and options contracts are not permissible investments.

5. *a.* Political subdivisions of this state, including entities organized pursuant to chapter 28E whose primary function is other than to jointly invest public funds, shall purchase and invest only in the following:

- (1) Obligations of the United States government, its agencies, and instrumentalities.
- (2) Certificates of deposit and other evidences of deposit at federally insured depository institutions approved pursuant to chapter 12C.
- (3) Prime bankers' acceptances that mature within two hundred seventy days and that are eligible for purchase by a federal reserve bank, provided that at the time of purchase no more than ten percent of the investment portfolio shall be in investments authorized by this subparagraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.
- (4) Commercial paper or other short-term corporate debt that matures within two hundred seventy days and that is rated within the two highest classifications, as established by at least one of the standard rating

services approved by the superintendent of banking by rule adopted pursuant to chapter 17A, provided that at the time of purchase no more than five percent of all amounts invested in commercial paper and other short-term corporate debt shall be invested in paper and debt rated in the second highest classification, and provided further that at the time of purchase no more than ten percent of the investment portfolio shall be in investments authorized by this subparagraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

(5) Repurchase agreements whose underlying collateral consists of the investments set out in subparagraph (1) if the political subdivision takes delivery of the collateral either directly or through an authorized custodian. Repurchase agreements do not include reverse repurchase agreements.

(6) An open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7.

(7) A joint investment trust organized pursuant to chapter 28E prior to and existing in good standing on the effective date of this Act or a joint investment trust organized pursuant to chapter 28E after April 28, 1992, provided that the joint investment trust shall either be rated within the two highest classifications by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A and operated in accordance with 17 C.F.R. § 270.2a-7, or be registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7. The manager or investment advisor of the joint investment trust shall be registered with the federal securities and exchange commission under the Investment Advisor Act of 1940, 15 U.S.C. § 80(b).

(8) Warrants or improvement certificates of a levee or drainage district.

(9) Investments authorized under subsection 7.

b. Futures and options contracts are not permissible investments.

6. The following investments are not subject to this section:

a. Investments by the public safety peace officers' retirement system governed by chapter 97A.

b. Investments by the Iowa public employees' retirement system governed by chapter 97B.

c. Investments by the Iowa finance authority governed by chapter 16.

d. Investments by the state board of regents. However, investments by the state board of regents or institutions governed by the state board of regents are limited to the following:

(1) Those investments set out in subsection 4.

(2) The common fund for nonprofit organizations.

(3) Common stocks.

(4) For investments of short-term operating funds, the funds shall not be invested in investments having effective maturities exceeding sixty-three months.

e. A pension and annuity retirement system governed by chapter 294.

f. Investments by the statewide fire and police retirement system governed by chapter 411.

g. Investments by the judicial retirement system governed by chapter 602, article 9.

h. Investments under the deferred compensation plan established by the executive council pursuant to section 509A.12.

i. Investments made by city hospitals as provided in section 392.6. However, investments by city hospitals are limited to the following:

(1) The same types of investments as the treasurer of state and other state agencies may make under this section.

(2) Investment in common stocks.

j. Investments by the tobacco settlement authority governed by chapter 12E.

k. Investments by municipal utility retirement systems governed under chapter 412.

7. Notwithstanding sections 12C.2, 12C.4, 12C.6, 12C.6A, and any other provision of law relating to the deposits of public funds, if public funds are deposited in a depository, as defined in section 12C.1, any uninsured portion of the public funds invested through the depository may be invested in certificates of deposit arranged by the depository that are issued by one or more federally insured banks or savings associations regardless of location for the account of the public funds depositor if all of the following requirements are satisfied:

a. The full amount of the principal and any accrued interest of each certificate of deposit issued shall be covered by federal deposit insurance.

b. The depository, either directly or through an agent or subcustodian, shall act as custodian of the certificates of deposit.

c. The day the certificates of deposit are issued, the depository shall have received deposits in an amount eligible for federal deposit insurance from, and issued certificates of deposit to, customers of other financial institutions wherever located that are equal to or greater than the amount of public funds invested under this subsection by the public funds depositor through the depository.

8. As used in this section, "*public funds*" means the same as defined in section 12C.1, subsection 2.

[R60, § 804; C73, § 918; C97, § 1462; S13, § 1462; C24, 27, 31, 35, 39, § 7412; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.10]

84 Acts, ch 1194, § 1; 84 Acts, ch 1230, § 4; 85 Acts, ch 194, §1; 87 Acts, ch 105, § 3; 88 Acts, ch 1027, § 1; 88 Acts, ch 1187, § 1; 90 Acts, ch 1233, § 30; 91 Acts, ch 249, §1; 92 Acts, ch 1156, § 16

C93, § 12B.10

94 Acts, ch 1012, §1; 96 Acts, ch 1187, §75; 97 Acts, ch 185, §1; 2000 Acts, ch 1156, §1; 2000 Acts, ch 1208, §20, 25; 2001 Acts, ch 68, §2, 24; 2001 Acts, ch 102, §1; 2003 Acts, ch 179, §91; 2006 Acts, ch 1023, § 14

12B.10A Public investment maturity and procedural limitations.

1. The investment of public funds which are operating funds by a political subdivision shall be subject to the following:

a. As used in this section, "*operating funds*" means those funds which are reasonably expected to be expended during a current budget year or within fifteen months of receipt.

b. Operating funds must be identified and distinguished from all other funds available for investment.

c. Operating funds may only be invested in investments which mature within three hundred ninety-seven days or less and which are authorized by law for the investing public entity.

2. All investments of public funds by political subdivisions shall be subject to the following:

a. Each investment must be authorized by applicable law and the written investment policy of the political subdivision.

b. Each political subdivision whose investments involve the use of a public funds custodial agreement, as defined in section 12B.10C, shall comply with rules adopted pursuant to section 12B.10C relating to those investments. All contracts providing for the investment of public funds shall be in writing and shall contain a provision requiring that all investments shall be made in accordance with the laws of this state.

c. A contract for the investment or deposit of public funds shall not provide for compensation of an agent or fiduciary based upon investment performance.

3. A treasurer of a political subdivision may invest funds of the political subdivision or agency that are not operating funds in investments having maturities longer than three hundred and ninety-seven days.

4. As used in this section, "*public funds*" means all funds that are public funds within the meaning of section 12C.1, subsection 2, paragraph "*e*", except state funds invested by the treasurer of state.

5. This section shall not be construed to supersede any provision of this chapter or of chapter 12C.

6. The following entities are not subject to this section:

a. The public safety peace officers' retirement system governed by chapter 97A.

b. The Iowa public employees' retirement system governed by chapter 97B.

c. The Iowa finance authority governed by chapter 16.

d. The state board of regents. However, investments by the state board of regents or institutions governed by the state board of regents are limited to the following:

(1) Those investments set out in section 12B.10, subsection 4.

(2) The common fund for nonprofit organizations.

(3) Common stocks.

(4) For investments of short-term operating funds, the funds shall not be invested in investments having effective maturities exceeding sixty-three months.

e. A pension and annuity retirement system governed by chapter 294.

- f.* The statewide fire and police retirement system governed by chapter 411.
- g.* The judicial retirement system governed by chapter 602, article 9.
- h.* The deferred compensation plan established by the executive council pursuant to section 509A.12.
- i.* The tobacco settlement authority governed by chapter 12E.

7. A joint investment trust organized pursuant to chapter 28E whose primary function is to invest public funds shall report to the general assembly not later than January 1 of each year the amount of any trust royalty, residual payment, administrative or service fee, or other fee paid by the trust, the services performed for the fee, and the person receiving the fee.

92 Acts, ch 1156, §17; 96 Acts, ch 1187, §76; 97 Acts, ch 185, §2; 2000 Acts, ch 1208, §21, 25; 2003 Acts, ch 179, §92

12B.10B Written investment policies.

1. Political subdivisions shall approve written investment policies which incorporate the guidelines specified in section 12B.10, sections 12B.10A through 12B.10C, and any other provisions deemed necessary to adequately safeguard invested public funds.

2. The written investment policy required by section 12B.10 shall be delivered to all of the following:

- a.* The governing body or officer of the public entity to which the policy applies.
- b.* All depository institutions or fiduciaries for public funds of the public entity.
- c.* The auditor of the public entity.

3. The following entities are not subject to this section:

- a.* The public safety peace officers' retirement system governed by chapter 97A.
- b.* The Iowa public employees' retirement system governed by chapter 97B.
- c.* The Iowa finance authority governed by chapter 16.
- d.* The state board of regents governed by chapter 262.
- e.* A pension and annuity retirement system governed by chapter 294.
- f.* The statewide fire and police retirement system governed by chapter 411.
- g.* The judicial retirement system governed by chapter 602, article 9.
- h.* The deferred compensation plan established by the executive council pursuant to section 509A.12.
- i.* The tobacco settlement authority governed by chapter 12E.
- j.* Municipal utility retirement systems governed under chapter 412.

92 Acts, ch 1156, §18; 96 Acts, ch 1187, §77; 97 Acts, ch 185, §3; 2000 Acts, ch 1208, §22, 25; 2001 Acts,

12B.10C Regulation of public funds custodial agreements.

The treasurer of state, in consultation with the attorney general, shall adopt rules under chapter 17A requiring the inclusion in public funds custodial agreements of any provisions necessary to prevent loss of public funds.

As used in this section, "*public funds custodial agreement*" means any contractual arrangement pursuant to which one or more persons, including but not limited to, investment advisors, investment companies, trustees, agents and custodians, are authorized to act as a custodian of or to designate another person to act as a custodian of public funds or any security or document of ownership or title evidencing public funds investments other than custodial agreements between an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and a custodian bank.

As used in this section "*public funds*" means public funds as defined in section 12C.1. However, this section does not apply to public funds that are invested under the provisions of a resolution or indenture for the issuance of bonds, notes, certificates, warrants, or other evidences of indebtedness. To the extent that a provision of this section conflicts with federal law, it shall be construed to avoid the conflict.

The following entities are not subject to this section:

1. The public safety peace officers' retirement system governed by chapter 97A.
2. The Iowa public employees' retirement system governed by chapter 97B.
3. Investments by the Iowa finance authority governed by chapter 16.
4. A pension and annuity retirement system governed by chapter 294.
5. The statewide fire and police retirement system governed by chapter 411.
6. The judicial retirement system governed by chapter 602, article 9.
7. The deferred compensation plan established by the executive council pursuant to section 509A.12.
8. The tobacco settlement authority governed by chapter 12E.
9. Municipal utility retirement systems governed under chapter 412.
10. The state board of regents governed by chapter 262.

92 Acts, ch 1156, §19; 96 Acts, ch 1187, §78; 97 Acts, ch 185, §4; 2000 Acts, ch 1208, §23, 25; 2001 Acts, ch 102, §3; 2005 Acts, ch 179, §147

12B.11 Manner and details of settlement.

At the time of any examination of any such office, or at the time of any settlement with the treasurer in charge of any such public funds, the treasurer is not required to produce and count in the presence of the officer or officers making such examination or settlement, unless otherwise requested by the board of supervisors, all moneys or funds then on deposit in the safe or vault in the treasurer's office. The treasurer shall produce a statement of all money or funds on deposit with any depository wherein the treasurer is

authorized to deposit such funds, and shall correctly show the balance remaining on deposit in such depository at the close of business on the day preceding the day of such settlement. The treasurer shall also file a statement setting forth the numbers, dates, and amounts of all outstanding checks, or other items of difference, reconciling the balance as shown by the treasurer's books with those of the depositories. The state treasurer shall also file a statement showing the numbers, dates, and amounts of all United States government bonds held as part of said public fund.

[R60, § 804; C73, § 918; C97, § 1462; S13, § 1462; C24, 27, 31, 35, 39, § **7413**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.11]

C93, § 12B.11

2003 Acts, ch 24, §1; 2006 Acts, ch 1070, §1, 31

12B.12 Duty of examining officer.

It shall be the duty of the officer or officers making such settlement to see that the amount of securities and money produced and counted, together with the amounts so certified by the legally designated depositories, agrees with the balance with which such treasurer should be charged, and the officer shall make a report in writing of any such settlement or examination, and attach thereto the certified statement of all such depositories.

[S13, § 1462; C24, 27, 31, 35, 39, § **7414**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.12]

C93, § 12B.12

12B.13 Report of settlement filed.

The report of any such settlement with the treasurer of state shall be filed in the office of the director of the department of management, and the report of a settlement with a county treasurer with the auditor of the county.

[S13, § 1462; C24, 27, 31, 35, 39, § **7415**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.13]

C93, § 12B.13

12B.14 False statements or reports.

Any officer or other person making a false statement or report or in any manner violating any of the provisions of sections 12B.10 to 12B.13 shall be guilty of a fraudulent practice.

[S13, § 1462-a; C24, 27, 31, 35, 39, § **7416**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.14]

C93, § 12B.14

12B.15 Official delinquency.

If any auditor or treasurer or other officer shall neglect or refuse to perform any act or duty specifically required of the officer, such officer shall be guilty of a simple misdemeanor, and the officer and the officer's surety shall be liable on the official bond for any fine imposed, and for the damages sustained by any person through such neglect or refusal.

[R60, § 744, 749, 805; C73, § 919; C97, § 1463; C24, 27, 31, 35, 39, § **7417**; C46, 50, 54, 58, 62, 66, 71, 73,

75, 77, 79, 81, § 452.15]

C93, § 12B.15

12B.16 Refund to counties.

The director of the department of administrative services shall draw the warrant on the state treasury in favor of any county in the state for the amount of any excess in any fund or tax due the state from said county, excepting the state taxes.

[C97, § 1464; C24, 27, 31, 35, 39, § **7418**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.16]

C93, § 12B.16

2003 Acts, ch 145, §286

12B.17 Warrant for excess.

When it shall appear from the books in the department of administrative services that there is a balance due any county in excess of any revenue due the state, except state taxes, the director of the department of administrative services shall draw a warrant for such excess in favor of the county entitled thereto, and forward the same by mail, or otherwise, to the county auditor of the county to which it belongs, and charge the amount so sent to such county.

[C97, § 1465; C24, 27, 31, 35, 39, § **7419**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.17]

C93, § 12B.17

2003 Acts, ch 145, §286

12B.18 Delivery to treasurer.

The auditor to whom said warrant is sent shall immediately, upon receipt thereof, deliver it to the treasurer of the county, and charge the amount thereof to the treasurer, and shall acknowledge the receipt of the amount to the director of the department of administrative services.

[C97, § 1466; C24, 27, 31, 35, 39, § **7420**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.18]

C93, § 12B.18

2003 Acts, ch 145, §286