

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1239

AN ACT

AMENDING SECTIONS 11-632 AND 35-323, ARIZONA REVISED STATUTES; RELATING TO  
COUNTY TREASURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-632, Arizona Revised Statutes, is amended to  
3 read:

4 11-632. Issuance of duplicate warrant

5 A. When it appears to the satisfaction of the board or county school  
6 superintendent by affidavit or otherwise that a warrant on the county  
7 treasurer has been lost or destroyed prior to payment and there is no  
8 reasonable probability of its being found or presented, the board may direct  
9 the issuance to the owner of a duplicate of the lost or destroyed warrant.  
10 Before issuing the duplicate, however, the board or county school  
11 superintendent shall send a written stop payment notice to the county  
12 treasurer, giving the number, amount and date of the warrant, the payee and  
13 the fund on which drawn. ~~The duplicate warrant issued shall be plainly  
14 stamped or marked so that its character may be readily ascertained.~~ Such  
15 duplicate warrant issued under authority of this section shall constitute  
16 full and sufficient authority to the county treasurer for disbursement of  
17 public monies in the amount set forth on the duplicate warrant. The county  
18 treasurer shall not pay any warrant on which a stop payment notice has been  
19 made unless the board has released the stop payment in writing.

20 B. The board of supervisors shall establish procedures for issuing  
21 duplicate warrants that protect the county and provide the owner with a  
22 duplicate warrant within a reasonable time.

23 Sec. 2. Section 35-323, Arizona Revised Statutes, is amended to read:

24 35-323. Investing public monies; bidding; security and other  
25 requirements

26 A. The treasurer shall invest and reinvest public monies in securities  
27 and deposits with a maximum maturity of five years. All public monies shall  
28 be invested in eligible investments. Eligible investments are:

29 1. Certificates of deposit in eligible depositories.

30 2. Certificates of deposit in one or more federally insured banks or  
31 savings and loan associations in accordance with the procedures prescribed in  
32 section 35-323.01.

33 3. Interest bearing savings accounts in banks and savings and loan  
34 institutions doing business in this state whose accounts are insured by  
35 federal deposit insurance for their industry, but only if deposits in excess  
36 of the insured amount are secured by the eligible depository to the same  
37 extent and in the same manner as required under this article.

38 4. Repurchase agreements with a maximum maturity of one hundred eighty  
39 days.

40 5. The pooled investment funds established by the state treasurer  
41 pursuant to section 35-326.

42 6. Obligations issued or guaranteed by the United States or any of the  
43 senior debt of its agencies, sponsored agencies, corporations, sponsored  
44 corporations or instrumentalities.

1           7. Bonds or other evidences of indebtedness of this state or any of  
2 its counties, incorporated cities or towns or school districts.

3           8. Bonds, notes or evidences of indebtedness of any county, municipal  
4 district, municipal utility or special taxing district of any state that are  
5 payable from revenues, earnings or a special tax specifically pledged for the  
6 payment of the principal and interest on the obligations, and for the payment  
7 of which a lawful sinking fund or reserve fund has been established and is  
8 being maintained, but only if no default in payment on principal or interest  
9 on the obligations to be purchased has occurred within five years of the date  
10 of investment, or, if such obligations were issued less than five years  
11 before the date of investment, no default in payment of principal or interest  
12 has occurred on the obligations to be purchased nor any other obligations of  
13 the issuer within five years of the investment.

14           9. Bonds, notes or evidences of indebtedness issued by any county  
15 improvement district or municipal improvement district of any state to  
16 finance local improvements authorized by law, if the principal and interest  
17 of the obligations are payable from assessments on real property within the  
18 improvement district. An investment shall not be made if:

19           (a) The face value of all such obligations, and similar obligations  
20 outstanding, exceeds fifty per cent of the market value of the real property,  
21 and if improvements on which the bonds or the assessments for the payment of  
22 principal and interest on the bonds are liens inferior only to the liens for  
23 general ad valorem taxes.

24           (b) A default in payment of principal or interest on the obligations  
25 to be purchased has occurred within five years of the date of investment, or,  
26 if the obligations were issued less than five years before the date of  
27 investment, a default in the payment of principal or interest has occurred on  
28 the obligations to be purchased or on any other obligation of the issuer  
29 within five years of the investment.

30           10. Commercial paper of prime quality that is rated within the top two  
31 ratings by a nationally recognized rating agency ~~or its successors~~. All  
32 commercial paper must be issued by corporations organized and doing business  
33 in the United States.

34           11. Bonds, debentures and notes that are issued by corporations  
35 organized and doing business in the United States and that are rated within  
36 the top three ratings by a nationally recognized rating agency ~~or its~~  
37 ~~successors~~.

38           12. Negotiable or brokered certificates of deposit issued by a  
39 nationally or state chartered bank or savings and loan association.

40           13. SECURITIES OF OR ANY OTHER INTERESTS IN ANY OPEN-END OR CLOSED-END  
41 MANAGEMENT TYPE INVESTMENT COMPANY OR INVESTMENT TRUST, INCLUDING EXCHANGE  
42 TRADED FUNDS WHOSE UNDERLYING INVESTMENTS ARE INVESTED IN SECURITIES ALLOWED  
43 BY STATE LAW, REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940 (54 STAT.  
44 789; 15 UNITED STATES CODE SECTIONS 80a-1 THROUGH 80a-64), AS AMENDED.

1 B. Certificates of deposit shall be purchased from the eligible  
2 depository bidding the highest permissible rate of interest. No monies over  
3 one hundred thousand dollars may be awarded at any interest rate less than  
4 one hundred three per cent of the equivalent bond yield of the offer side of  
5 United States treasury bills having a similar term. If the eligible  
6 depository offering to pay the highest rate of interest has bid only for a  
7 portion of the monies to be awarded, the remainder of the monies shall be  
8 awarded to eligible depositories bidding the next highest rates of interest.

9 C. An eligible depository is not eligible to receive total aggregate  
10 deposits from this state and all its subdivisions in an amount exceeding  
11 twice its capital structure as outlined in the last call of condition of the  
12 superintendent of financial institutions.

13 D. If two or more eligible depositories submit bids of an identical  
14 rate of interest for all or any portion of the monies to be deposited, the  
15 award of the deposit of the monies shall be made to the eligible depository  
16 among those submitting identical bids having, at the time of the bid opening,  
17 the lowest ratio of total public deposits in relation to its capital  
18 structure.

19 E. Each bid submitted, and not withdrawn prior to the time specified,  
20 constitutes an irrevocable offer to pay interest as specified in the bid on  
21 the deposit, or portion bid for, and the award of a deposit in accordance  
22 with this section obligates the depository to accept the deposit and pay  
23 interest as specified in the bid pursuant to which the deposit is awarded.

24 F. The treasurer shall maintain a record of all bids received and  
25 shall make available to the board of deposit at its next regularly scheduled  
26 meeting a correct list showing the bidders, the bids received and the amount  
27 awarded. These records shall be available to the public and shall be kept in  
28 the possession of the treasurer for not less than two years from the date of  
29 the report.

30 G. Any eligible depository, before receiving a deposit in excess of  
31 the insured amount under this article, shall deliver collateral for the  
32 purposes of this subsection equal to at least one hundred one per cent of the  
33 deposit. The collateral shall be any of the following:

34 1. A bond executed by a surety company that is approved by the  
35 treasury department of the United States and authorized to do business in  
36 this state. The bond shall be approved as to form by the legal advisor of  
37 the treasurer.

38 2. Securities or instruments of the following character:

39 (a) United States government or agency obligations.

40 (b) State, county, school district and other district municipal bonds.

41 (c) Registered warrants of this state, a county or other political  
42 subdivisions of this state, when offered as security for monies of the state,  
43 county or political subdivision by which they are issued.

44 (d) First mortgages and trust deeds on improved, unencumbered real  
45 estate located in this state. No single first mortgages or trust deeds may

1 represent more than ten per cent of the total collateral. The treasurer may  
2 require that the first mortgages or trust deeds comprising the total  
3 collateral security be twice the amount the eligible depository receives on  
4 deposit. First mortgages or trust deeds qualify as collateral subject to the  
5 following limitations:

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

9 (ii) An eligible depository shall at its own expense execute, deposit  
10 with the treasurer and record with the appropriate county recorder a complete  
11 sale and assignment with recourse in a form approved by the attorney general,  
12 together with an unconditional assumption of obligation to promptly pay to  
13 the entitled parties public monies in its custody upon lawful demand and  
14 tender of resale and assignment.

15 Eligible depositories may deposit the security described in this subdivision  
16 with the state treasurer, and county, city or town treasurers may accept the  
17 security described in this subdivision at their option.

18 3. The safekeeping receipt of a federal reserve bank or any bank  
19 located in a reserve city, or any bank authorized to do business in this  
20 state, whose combined capital, surplus and outstanding capital notes and  
21 debentures on the date of the safekeeping receipt are ten million dollars or  
22 more, evidencing the deposit therein of any securities or instruments  
23 described in this section. A safekeeping receipt shall not qualify as  
24 security, if issued by a bank to secure its own public deposits, unless  
25 issued directly through its trust department. The safekeeping receipt shall  
26 show upon its face that it is issued for the account of the treasurer and  
27 shall be delivered to the treasurer. The safekeeping receipt may provide for  
28 the substitution of securities or instruments which qualify under this  
29 section with the affirmative act of the treasurer.

30 H. The securities, instruments or safekeeping receipt for the  
31 securities, instruments or warrants shall be accepted at market value if not  
32 above par, and, if at any time their market value becomes less than the  
33 deposit liability to that treasurer, additional securities or instruments  
34 required to guarantee deposits shall be deposited immediately with the  
35 treasurer who made the deposit and deposited by the eligible depository in  
36 which the deposit was made.

37 I. The condition of the surety bond, or the deposit of securities,  
38 instruments or a safekeeping receipt, must be such that the eligible  
39 depository will promptly pay to the parties entitled public monies in its  
40 custody, upon lawful demand, and will, when required by law, pay the monies  
41 to the treasurer making the deposit.

42 J. Notwithstanding the requirements of this section, any institution  
43 qualifying as an eligible depository may accept deposits of public monies to  
44 the total then authorized insurance of accounts, insured by federal deposit

1 insurance, without depositing a surety bond or securities in lieu of the  
2 surety bond.

3 K. An eligible depository shall report monthly to the treasurer the  
4 total deposits of that treasurer and the par value and the market value of  
5 any pledged collateral securing those deposits.

6 L. When a security or instrument pledged as collateral matures or is  
7 called for redemption, the cash received for the security or instrument shall  
8 be held in place of the security until the depository has obtained a written  
9 release or provided substitute securities or instruments.

10 M. The surety bond, securities, instruments or safekeeping receipt of  
11 an eligible depository shall be deposited with the treasurer making the  
12 deposit, and the treasurer shall be the custodian of the bond, securities,  
13 instruments or safekeeping receipt. The treasurer may then deposit with the  
14 depository public monies then in the treasurer's possession in accordance  
15 with this article, but not in an amount in excess of the surety bond,  
16 securities, instruments or safekeeping receipt deposited, except for federal  
17 deposit insurance.

18 N. The following restrictions on investments are applicable:

19 1. An investment of public operating fund monies shall not be invested  
20 for a maturity of longer than five years.

21 2. The board of deposit may order the treasurer to sell any of the  
22 securities, and any order shall specifically describe the securities and fix  
23 the date upon which they are to be sold. Securities so ordered to be sold  
24 shall be sold for cash by the treasurer on the date fixed in the order, at  
25 the then current market price. The treasurer and the members of the board  
26 are not accountable for any loss occasioned by sales of securities at prices  
27 lower than their cost. Any loss or expense shall be charged against earnings  
28 received from investment of public funds.

29 O. If the total amount of subdivision monies available for deposit at  
30 any time is less than one hundred thousand dollars, the subdivision board of  
31 deposit shall award the deposit of the funds to an eligible depository in  
32 accordance with an ordinance or resolution of the governing body of the  
33 subdivision.