



PROPOSED RULE MAKING

C .-102 (June 2012)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

Agency: Office of the State Treasurer

- | | |
|---|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR <u>12-19-043</u> ; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject)

Chapter 210-01 WAC Operation of the Local Government Investment Pool (LGIP)

This chapter is being repealed and replaced with Chapter 210-10 WAC Operation of the Local Government Investment Pool in order to amend the WAC provisions that were contained in Chapter 210-01 without altering or losing the legislative history associated with them as a result of the comprehensive changes and reorganization of the rules.

Hearing location(s):

Office of the State Treasurer
Capitol Court Building, Room 204
1110 Capitol Way SW
Olympia, WA 98504

Date: January 8, 2013 Time: 10:00 a.m.

Submit written comments to:

Name: Johnna Craig
Address:
1110 Capitol Way, SW PO Box 40200, Olympia, WA 98504
e-mail johnna.craig@tre.wa.gov
fax (360) 704-5181 by (date) January 6, 2013

Assistance for persons with disabilities: Contact

Johnna S. Craig by January 7, 2013

TTY Dial 7-1-1 for Telecommunications Relay Services

Date of intended adoption: January 9, 2013

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To amend and update existing WACs (by repealing chapter 210-01 and replacing with 210-10 to 1) introduce the concept and use of a prospectus, 2) introduce the ability of the state treasurer to offer different subpool's with different investment strategies, 3) modernize and update the provisions of the WACs to account for legislative changes, 4) provide for more clarity and more precision with respect to the terminology used in the WACs.

Reasons supporting proposal: The proposed changes allow more flexibility for the state treasurer to offer different investment options. It also clarifies and makes consistent the process and operation of the LGIP and requires the use of a prospectus to more comprehensively explain the operations of the LGIP.

Statutory authority for adoption: RCW 43.250.060

Statute being implemented: Chapter 43.250 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

DATE
11/20/2012

NAME (type or print)
Douglas D. Extine

SIGNATURE

TITLE
Deputy State Treasurer

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

NOV 20 2012

TIME 4:06 AM/PM AM PM

WSR 12-23-086

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Washington State Treasurer

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Doug Extine	416 Syd Snyder Ave SW,Legislative Building Rm 230, Olympia, WA 98504	(360) 902-9012
Implementation....Doug Extine	416 Syd Snyder Ave SW,Legislative Building Rm 230, Olympia, WA 98504	(360) 902-9012
Enforcement..... Doug Extine	416 Syd Snyder Ave SW,Legislative Building Rm 230, Olympia, WA 98504	(360) 902-9012

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:
Address:

phone () _____
fax () _____
e-mail _____

No. Explain why no statement was prepared.

The proposed rules are "rules relating only to internal governmental operations that are not subject to violation by a nongovernmental entity" as stated in RCW 34.05.310 and therefore such requirement is not applicable to these proposed rules. Further the rules are not being proposed by the state board of education as addressed in section 1, chapter 210, Laws of 2012.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:

phone () _____
fax () _____
e-mail _____

No: Please explain: The proposed rules are "rules relating only to internal governmental operations that are not subject to violation by a nongovernmental entity" as stated in RCW 34.05.328(5)(b) and therefore such requirement is not applicable to these proposed rules.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 210-01-010	Promulgation.
WAC 210-01-020	Definitions.
WAC 210-01-030	Local government ordinance or resolution.
WAC 210-01-040	Proper adoption and filing of local government ordinance or resolution.
WAC 210-01-050	State treasurer's liability.
WAC 210-01-060	Deposit and withdrawal of funds.
WAC 210-01-070	Transaction limitation.
WAC 210-01-080	Deposit procedures.
WAC 210-01-090	Withdrawal procedures.
WAC 210-01-100	Interest earnings credit.
WAC 210-01-110	Reporting requirements.
WAC 210-01-120	Administrative deductions.
WAC 210-01-130	Portfolio management.

Chapter 210-10 WAC

LOCAL GOVERNMENT INVESTMENT POOL

NEW SECTION

WAC 210-10-010 Definitions. Unless the context requires otherwise:

"Extended asset fund" means a subpool whose investments generally have a longer maturity than the money market fund and may be more restricted in the number of contributions and withdrawals than the money market fund.

"Financial institution" means a public depository as defined in RCW 39.58.010.

"Financial officer" means the same as that term is defined in RCW 43.250.020.

"Funds" means the same as that term is defined in RCW 43.250.020.

"Government finance official" means the same as that term is defined in RCW 43.250.020.

"Local government investment pool" or "pool" means the aggregate of all funds from pool participants that are placed in the custody of the state treasurer for investment and reinvestment.

"Money market fund" means a subpool whose investments are primarily money market instruments.

"Net asset value" with respect to the assets of a subpool shall mean the value of the assets of that subpool reduced by its accrued liability.

"Pool participant" means any eligible governmental entity as that term is defined in RCW 43.250.020 that is invested in a subpool.

"Prospectus" means a written offer of an investment in the pool or in any subpool designated as a prospectus by the state treasurer.

"Subpool" means a subcomponent of the pool as may be established and designated by the state treasurer from time to time. Each subpool shall have its own name, assets, and liabilities as designated by the state treasurer. The state treasurer may designate separate investment policies, restrictions, objectives, and strategies for each subpool.

"Value" with respect to an asset shall mean (a) with respect to securities for which market quotations are readily available, the market value of such securities, and (b) with respect to other

securities or assets, fair value as determined by the state treasurer. In determining fair value, the state treasurer may appoint and rely upon a pricing service. With respect to the money market fund, "value" shall mean the amortized cost of the money market fund's assets unless the state treasurer determines otherwise.

NEW SECTION

WAC 210-10-020 Requirements for participation in the pool.

(1) Before participating in the pool, all pool participants shall file with the state treasurer, any documentation required by the state treasurer. Such documentation shall, at a minimum, provide the following information:

(a) Name and address of the pool participant;

(b) A statement that the pool participant agrees to contribute or withdraw funds in the local government investment pool in accordance with the provisions of the Washington Administrative Code and the prospectus for the purpose of investment as stated therein; and

(c) The names and titles of the officials authorized to order the contribution or withdrawal of funds in the local government investment pool.

(2) It shall be the responsibility of pool participants to properly execute and file any required documentation with the state treasurer. The state treasurer shall not allow participation in the local government investment pool unless such documentation has been filed with the state treasurer.

NEW SECTION

WAC 210-10-030 State treasurer's liability. The state treasurer shall not be liable for:

(1) Any loss, including loss of capital, resulting from investments in the pool and/or any subpool, as applicable, except as provided for in RCW 43.250.040;

(2) Any damages resulting from misfeasance, malfeasance, nonfeasance, or defalcation on the part of a government finance official, financial officer, or pool participant;

(3) Any loss, including loss of capital, that results from a pool participant's failure to comply with the provisions of the Washington Administrative Code or the prospectus; or

(4) Any loss, including loss of capital, resulting from a pool participant seeking, and being granted, a withdrawal due to

necessity, from the extended asset fund.

NEW SECTION

WAC 210-10-040 Transaction limitation. The state treasurer reserves the right at its sole discretion to set a minimum and/or maximum transaction amount from any subpool and to limit the number of transactions, whether contribution, withdrawal, or transfer, permitted in a day or other given period of time, or whether to pay withdrawal proceeds in kind or in cash. The state treasurer may establish thresholds and defer withdrawals in excess of those thresholds and pay them out on a deferred or delayed basis from any subpool. In addition, the state treasurer reserves the right at its sole discretion to reject any proposed contribution order, and in particular to reject any proposed contribution made by a pool participant engaged in behavior deemed by the state treasurer to be abusive.

NEW SECTION

WAC 210-10-050 Contribution procedures. (1) Contribution procedures for the money market fund:

All contributions will be effected by electronic funds transfer to an account in the money market fund designated by the state treasurer. It is the responsibility of each pool participant to pay any bank charges associated with such electronic transfers to the state treasurer. Failure to wire funds by a pool participant after notification to the state treasurer of an intended transfer will result in penalties. Penalties for failure to timely wire funds will be assessed to the account of the pool participant responsible.

Contribution requests received in good order will receive the net asset value per unit of the money market fund next determined after the order is accepted by the state treasurer.

(2) Contribution procedures for the extended asset fund:

Direct investments into the extended asset fund are not permitted. Contributions to the extended asset fund may only be effected by means of a contribution from the money market fund. Contributions will take place monthly, on the 10th calendar day of the month (or on the next business day, if the 10th does not fall on a business day).

Pool participants must notify the state treasurer of any contribution on the business day prior to a permitted contribution date no later than the time on that day specified in the

prospectus. The state treasurer may allow contributions with less than the required notice in its sole discretion.

Contributions to the extended asset fund will be effected by way of a corresponding withdrawal from the pool participant's specified money market fund account. On the contribution date, shares will be sold from the specified money market fund account at the net asset value determined as of the order acceptance date. Shares of the extended asset fund will be purchased using the extended asset fund's net asset value determined as of the order acceptance date.

NEW SECTION

WAC 210-10-060 Contribution limits and earnings credit. (1) Contribution limits and earnings credit for the money market fund:

To ensure same day credit, a pool participant must inform the state treasurer of any contribution over one million dollars no later than 9 a.m. on the same day the contribution is made. Contributions for one million dollars or less can be requested at any time prior to 10 a.m. on the day of contribution.

For all other contributions over one million dollars that are requested prior to 10 a.m., a pool participant may receive same day credit at the sole discretion of the state treasurer. Contributions that receive same day credit will count, for earning rate purposes, as of the day in which the contribution was made. Contributions for which no notice is received prior to 10 a.m. will be credited as of the following business day.

(2) Earnings credit:

Income earnings credit on funds contributed to a subpool will be credited to each subpool in the timing and manner described in the prospectus.

NEW SECTION

WAC 210-10-070 Withdrawal procedures. (1) Withdrawal procedures for the money market fund:

Each pool participant shall file with the state treasurer a letter designating the financial institution at which funds withdrawn from the money market fund shall be deposited. This letter shall contain the name of the financial institution, the location of the financial institution, the account name, and the account number to which funds will be deposited. This letter shall be signed by local officials authorized to receive and disburse funds, as described in WAC 210-10-020. Disbursements from the

subpool will be effected by electronic funds transfer. Failure by the state treasurer to wire funds to a pool participant after proper notification to the state treasurer to disburse funds to a pool participant may result in a bank overdraft in the pool participant's bank account. The state treasurer will reimburse a pool participant for such bank overdraft penalties charged to the pool participant's bank account.

In order to withdraw funds from the money market fund, a pool participant must notify the state treasurer of any withdrawal over one million dollars no later than 9 a.m. on the same day the withdrawal is made. Withdrawals for one million dollars or less can be requested at any time prior to 10 a.m. on the day of withdrawal.

For all other withdrawals from the money market fund over one million dollars that are requested prior to 10 a.m., a pool participant may receive such withdrawal on the same day it is requested at the sole discretion of the state treasurer.

Withdrawal requests with respect to the money market fund received in good order will receive the net asset value per unit of the money market fund next determined after the order is accepted by the state treasurer.

(2) Withdrawal procedures for the extended asset fund.

Withdrawal orders will be accepted on a quarterly basis and must be received two business days prior to the intended withdrawal date. Withdrawals will occur on the 10th calendar day of the months so designated in the prospectus. If the 10th is not a business day, the withdrawal will occur on the following business day. Other withdrawals may be permitted due to necessity, if the governing body of a pool participant sets forth, by resolution or other appropriate official action, that a withdrawal is necessary to meet the cash flow needs of the pool participant.

Withdrawals from the extended asset fund will be effected by way of a corresponding contribution into the pool participant's specified money market fund account. On the withdrawal date, shares will be sold from the specified extended asset fund account at the net asset value determined as of the next business day after the order acceptance date. Shares of the money market fund will be purchased using the money market fund's net asset value determined as of the next business day after the order acceptance date.

Pool participants must notify the state treasurer of any withdrawal two business days prior to a permitted withdrawal date no later than the time on that day specified in the prospectus. The state treasurer may allow withdrawals with less than the required notice in its sole discretion.

NEW SECTION

WAC 210-10-080 Transfer procedures. A pool participant may transfer funds from one money market fund account to another. To ensure same day credit, a pool participant must inform the state treasurer of any transfer no later than 10 a.m. on the same day the transfer is made.

NEW SECTION

WAC 210-10-090 Reporting requirements. The state treasurer will provide to each pool participant a monthly statement showing that pool participant's beginning balance, contributions, withdrawals, transfers, administrative charges, earnings rate, earnings, and ending balance in each subpool for the preceding calendar month.

NEW SECTION

WAC 210-10-100 Administrative deductions. As authorized in RCW 43.250.060, the state treasurer will require reimbursement for the administration and recovery of costs associated with the operation of the pool. Each pool participant will reimburse the state treasurer based upon each pool participant's share of the total pool assets in the timing and manner described in the prospectus.

NEW SECTION

WAC 210-10-110 Portfolio management. The state treasurer shall manage the funds invested in each subpool in such a manner as to effectively maximize the yield to the subpool. The state treasurer shall have the sole responsibility in setting the investment strategy for each subpool.

NEW SECTION

WAC 210-10-120 The prospectus. The state treasurer may specify by means of a prospectus, or supplement thereto, such terms and conditions not otherwise set forth in the administrative code applicable to the management and operation of the pool and/or any subpool, including investment policies, restrictions, objectives not inconsistent with WAC 210-10-110, contributions, the crediting of income, gain or loss, the allocation of liabilities among subpools, and withdrawals and contributions among subpools, as the state treasurer may deem appropriate, from time to time. Material changes to a prospectus may be made by the state treasurer by means of a supplement or restated prospectus, effective as of the date sent to pool participants or as of the later date stated therein.

NEW SECTION

WAC 210-10-130 Liquidation and termination. The state treasurer may liquidate and terminate any subpool in its sole discretion. Upon declaring a liquidation, the state treasurer shall make arrangements for the disposition of the affected subpool's assets and either the payment of all liabilities or the establishment of adequate reserves for the discharge of the subpool's liabilities, if any. Pool participants will receive their pro rata share of the subpool's assets net of such liabilities or reserves. Notwithstanding the foregoing, the state treasurer may hold back up to ten percent of the value of the liquidating subpool until all liabilities are discharged. Residual amounts, if any, will be distributed to pool participants on a pro rata basis. Pool participants will not earn income on any amounts held back.

NEW SECTION

WAC 210-10-140 Restriction on withdrawals. The state treasurer may take any measure and impose any restriction on withdrawals from any subpool or any category of pool participant, including, but not limited to, prorating over time any withdrawal order and/or satisfying any withdrawal order by offering pool participants withdrawals in-kind, as described in the prospectus.