

# HB4573



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4573

by Rep. Michael J. Zalewski

### SYNOPSIS AS INTRODUCED:

30 ILCS 235/2

from Ch. 85, par. 902

Amends the Public Funds Investment Act. Provides that any public agency may invest any public funds in obligations (currently, short term obligations) of corporations organized in the United States with assets exceeding \$500,000,000 if such obligations mature not later than 3 years (currently, 270 days) from the date of purchase, in addition to other criteria. Effective immediately.

LRB100 16602 HLH 31738 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Funds Investment Act is amended by  
5 changing Section 2 as follows:

6 (30 ILCS 235/2) (from Ch. 85, par. 902)

7 Sec. 2. Authorized investments.

8 (a) Any public agency may invest any public funds as  
9 follows:

10 (1) in bonds, notes, certificates of indebtedness,  
11 treasury bills or other securities now or hereafter issued,  
12 which are guaranteed by the full faith and credit of the  
13 United States of America as to principal and interest;

14 (2) in bonds, notes, debentures, or other similar  
15 obligations of the United States of America, its agencies,  
16 and its instrumentalities;

17 (3) in interest-bearing savings accounts,  
18 interest-bearing certificates of deposit or  
19 interest-bearing time deposits or any other investments  
20 constituting direct obligations of any bank as defined by  
21 the Illinois Banking Act;

22 (4) in ~~short-term~~ obligations of corporations  
23 organized in the United States with assets exceeding

1           \$500,000,000 if (i) such obligations are rated at the time  
2           of purchase at one of the 3 highest classifications  
3           established by at least 2 standard rating services and  
4           which mature not later than 3 years ~~270 days~~ from the date  
5           of purchase, (ii) such purchases do not exceed 10% of the  
6           corporation's outstanding obligations and (iii) no more  
7           than one-third of the public agency's funds may be invested  
8           in short term obligations of corporations; or

9           (5) in money market mutual funds registered under the  
10          Investment Company Act of 1940, provided that the portfolio  
11          of any such money market mutual fund is limited to  
12          obligations described in paragraph (1) or (2) of this  
13          subsection and to agreements to repurchase such  
14          obligations.

15          (a-1) In addition to any other investments authorized under  
16          this Act, a municipality, park district, forest preserve  
17          district, conservation district, county, or other governmental  
18          unit may invest its public funds in interest bearing bonds of  
19          any county, township, city, village, incorporated town,  
20          municipal corporation, or school district, of the State of  
21          Illinois, of any other state, or of any political subdivision  
22          or agency of the State of Illinois or of any other state,  
23          whether the interest earned thereon is taxable or tax-exempt  
24          under federal law. The bonds shall be registered in the name of  
25          the municipality, park district, forest preserve district,  
26          conservation district, county, or other governmental unit, or

1 held under a custodial agreement at a bank. The bonds shall be  
2 rated at the time of purchase within the 4 highest general  
3 classifications established by a rating service of nationally  
4 recognized expertise in rating bonds of states and their  
5 political subdivisions.

6 (b) Investments may be made only in banks which are insured  
7 by the Federal Deposit Insurance Corporation. Any public agency  
8 may invest any public funds in short term discount obligations  
9 of the Federal National Mortgage Association or in shares or  
10 other forms of securities legally issuable by savings banks or  
11 savings and loan associations incorporated under the laws of  
12 this State or any other state or under the laws of the United  
13 States. Investments may be made only in those savings banks or  
14 savings and loan associations the shares, or investment  
15 certificates of which are insured by the Federal Deposit  
16 Insurance Corporation. Any such securities may be purchased at  
17 the offering or market price thereof at the time of such  
18 purchase. All such securities so purchased shall mature or be  
19 redeemable on a date or dates prior to the time when, in the  
20 judgment of such governing authority, the public funds so  
21 invested will be required for expenditure by such public agency  
22 or its governing authority. The expressed judgment of any such  
23 governing authority as to the time when any public funds will  
24 be required for expenditure or be redeemable is final and  
25 conclusive. Any public agency may invest any public funds in  
26 dividend-bearing share accounts, share certificate accounts or

1 class of share accounts of a credit union chartered under the  
2 laws of this State or the laws of the United States; provided,  
3 however, the principal office of any such credit union must be  
4 located within the State of Illinois. Investments may be made  
5 only in those credit unions the accounts of which are insured  
6 by applicable law.

7 (c) For purposes of this Section, the term "agencies of the  
8 United States of America" includes: (i) the federal land banks,  
9 federal intermediate credit banks, banks for cooperative,  
10 federal farm credit banks, or any other entity authorized to  
11 issue debt obligations under the Farm Credit Act of 1971 (12  
12 U.S.C. 2001 et seq.) and Acts amendatory thereto; (ii) the  
13 federal home loan banks and the federal home loan mortgage  
14 corporation; and (iii) any other agency created by Act of  
15 Congress.

16 (d) Except for pecuniary interests permitted under  
17 subsection (f) of Section 3-14-4 of the Illinois Municipal Code  
18 or under Section 3.2 of the Public Officer Prohibited Practices  
19 Act, no person acting as treasurer or financial officer or who  
20 is employed in any similar capacity by or for a public agency  
21 may do any of the following:

22 (1) have any interest, directly or indirectly, in any  
23 investments in which the agency is authorized to invest.

24 (2) have any interest, directly or indirectly, in the  
25 sellers, sponsors, or managers of those investments.

26 (3) receive, in any manner, compensation of any kind

1 from any investments in which the agency is authorized to  
2 invest.

3 (e) Any public agency may also invest any public funds in a  
4 Public Treasurers' Investment Pool created under Section 17 of  
5 the State Treasurer Act. Any public agency may also invest any  
6 public funds in a fund managed, operated, and administered by a  
7 bank, subsidiary of a bank, or subsidiary of a bank holding  
8 company or use the services of such an entity to hold and  
9 invest or advise regarding the investment of any public funds.

10 (f) To the extent a public agency has custody of funds not  
11 owned by it or another public agency and does not otherwise  
12 have authority to invest such funds, the public agency may  
13 invest such funds as if they were its own. Such funds must be  
14 released to the appropriate person at the earliest reasonable  
15 time, but in no case exceeding 31 days, after the private  
16 person becomes entitled to the receipt of them. All earnings  
17 accruing on any investments or deposits made pursuant to the  
18 provisions of this Act shall be credited to the public agency  
19 by or for which such investments or deposits were made, except  
20 as provided otherwise in Section 4.1 of the State Finance Act  
21 or the Local Governmental Tax Collection Act, and except where  
22 by specific statutory provisions such earnings are directed to  
23 be credited to and paid to a particular fund.

24 (g) A public agency may purchase or invest in repurchase  
25 agreements of government securities having the meaning set out  
26 in the Government Securities Act of 1986, as now or hereafter

1 amended or succeeded, subject to the provisions of said Act and  
2 the regulations issued thereunder. The government securities,  
3 unless registered or inscribed in the name of the public  
4 agency, shall be purchased through banks or trust companies  
5 authorized to do business in the State of Illinois.

6 (h) Except for repurchase agreements of government  
7 securities which are subject to the Government Securities Act  
8 of 1986, as now or hereafter amended or succeeded, no public  
9 agency may purchase or invest in instruments which constitute  
10 repurchase agreements, and no financial institution may enter  
11 into such an agreement with or on behalf of any public agency  
12 unless the instrument and the transaction meet the following  
13 requirements:

14 (1) The securities, unless registered or inscribed in  
15 the name of the public agency, are purchased through banks  
16 or trust companies authorized to do business in the State  
17 of Illinois.

18 (2) An authorized public officer after ascertaining  
19 which firm will give the most favorable rate of interest,  
20 directs the custodial bank to "purchase" specified  
21 securities from a designated institution. The "custodial  
22 bank" is the bank or trust company, or agency of  
23 government, which acts for the public agency in connection  
24 with repurchase agreements involving the investment of  
25 funds by the public agency. The State Treasurer may act as  
26 custodial bank for public agencies executing repurchase

1 agreements. To the extent the Treasurer acts in this  
2 capacity, he is hereby authorized to pass through to such  
3 public agencies any charges assessed by the Federal Reserve  
4 Bank.

5 (3) A custodial bank must be a member bank of the  
6 Federal Reserve System or maintain accounts with member  
7 banks. All transfers of book-entry securities must be  
8 accomplished on a Reserve Bank's computer records through a  
9 member bank of the Federal Reserve System. These securities  
10 must be credited to the public agency on the records of the  
11 custodial bank and the transaction must be confirmed in  
12 writing to the public agency by the custodial bank.

13 (4) Trading partners shall be limited to banks or trust  
14 companies authorized to do business in the State of  
15 Illinois or to registered primary reporting dealers.

16 (5) The security interest must be perfected.

17 (6) The public agency enters into a written master  
18 repurchase agreement which outlines the basic  
19 responsibilities and liabilities of both buyer and seller.

20 (7) Agreements shall be for periods of 330 days or  
21 less.

22 (8) The authorized public officer of the public agency  
23 informs the custodial bank in writing of the maturity  
24 details of the repurchase agreement.

25 (9) The custodial bank must take delivery of and  
26 maintain the securities in its custody for the account of



1 the public agency and confirm the transaction in writing to  
2 the public agency. The Custodial Undertaking shall provide  
3 that the custodian takes possession of the securities  
4 exclusively for the public agency; that the securities are  
5 free of any claims against the trading partner; and any  
6 claims by the custodian are subordinate to the public  
7 agency's claims to rights to those securities.

8 (10) The obligations purchased by a public agency may  
9 only be sold or presented for redemption or payment by the  
10 fiscal agent bank or trust company holding the obligations  
11 upon the written instruction of the public agency or  
12 officer authorized to make such investments.

13 (11) The custodial bank shall be liable to the public  
14 agency for any monetary loss suffered by the public agency  
15 due to the failure of the custodial bank to take and  
16 maintain possession of such securities.

17 (i) Notwithstanding the foregoing restrictions on  
18 investment in instruments constituting repurchase agreements  
19 the Illinois Housing Development Authority may invest in, and  
20 any financial institution with capital of at least \$250,000,000  
21 may act as custodian for, instruments that constitute  
22 repurchase agreements, provided that the Illinois Housing  
23 Development Authority, in making each such investment,  
24 complies with the safety and soundness guidelines for engaging  
25 in repurchase transactions applicable to federally insured  
26 banks, savings banks, savings and loan associations or other

1 depository institutions as set forth in the Federal Financial  
2 Institutions Examination Council Policy Statement Regarding  
3 Repurchase Agreements and any regulations issued, or which may  
4 be issued by the supervisory federal authority pertaining  
5 thereto and any amendments thereto; provided further that the  
6 securities shall be either (i) direct general obligations of,  
7 or obligations the payment of the principal of and/or interest  
8 on which are unconditionally guaranteed by, the United States  
9 of America or (ii) any obligations of any agency, corporation  
10 or subsidiary thereof controlled or supervised by and acting as  
11 an instrumentality of the United States Government pursuant to  
12 authority granted by the Congress of the United States and  
13 provided further that the security interest must be perfected  
14 by either the Illinois Housing Development Authority, its  
15 custodian or its agent receiving possession of the securities  
16 either physically or transferred through a nationally  
17 recognized book entry system.

18 (j) In addition to all other investments authorized under  
19 this Section, a community college district may invest public  
20 funds in any mutual funds that invest primarily in corporate  
21 investment grade or global government short term bonds.  
22 Purchases of mutual funds that invest primarily in global  
23 government short term bonds shall be limited to funds with  
24 assets of at least \$100 million and that are rated at the time  
25 of purchase as one of the 10 highest classifications  
26 established by a recognized rating service. The investments

1 shall be subject to approval by the local community college  
2 board of trustees. Each community college board of trustees  
3 shall develop a policy regarding the percentage of the  
4 college's investment portfolio that can be invested in such  
5 funds.

6 Nothing in this Section shall be construed to authorize an  
7 intergovernmental risk management entity to accept the deposit  
8 of public funds except for risk management purposes.

9 (Source: P.A. 97-129, eff. 7-14-11; 98-297, eff. 1-1-14;  
10 98-390, eff. 8-16-13; 98-756, eff. 7-16-14.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.