



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2014

Introduced 2/25/2005, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

30 ILCS 235/2

from Ch. 85, par. 902

Amends the Public Funds Investment Act. Allows investment in (i) short term obligations of certain corporations if the purchases do not exceed 10% of the corporation's outstanding obligations "at the time of the purchase of the obligations" and (ii) certain money market mutual funds if the portfolio of the fund is limited to certain mutual bonds. Allows investment in any obligations of the Federal National Mortgage Association or certain savings and loan associations (now, only short term discount obligations). Effective immediately.

LRB094 11547 JAM 42523 b

FISCAL NOTE ACT
MAY APPLY

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 or its
16 agencies;

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
24 \$500,000,000 if (i) such obligations are rated at the time
25 of purchase at one of the 3 highest classifications
26 established by at least 2 standard rating services and
27 which mature not later than 180 days from the date of
28 purchase, (ii) such purchases do not exceed 10% of the
29 corporation's outstanding obligations at the time of the
30 purchase of the obligations and (iii) no more than
31 one-third of the public agency's funds may be invested in
32 short term obligations of corporations; or

1 (5) in money market mutual funds registered under the
2 Investment Company Act of 1940, provided that the portfolio
3 of any such money market mutual fund is limited to
4 obligations described in paragraph (1) or (2) of this
5 subsection or in obligations described in subsection (a-1)
6 and to agreements to repurchase such obligations.

7 (a-1) In addition to any other investments authorized under
8 this Act, a municipality may invest its public funds in
9 interest bearing bonds of any county, township, city, village,
10 incorporated town, municipal corporation, or school district,
11 of the State of Illinois, of any other state, or of any
12 political subdivision or agency of the State of Illinois or of
13 any other state, whether the interest earned thereon is taxable
14 or tax-exempt under federal law. The bonds shall be registered
15 in the name of the municipality or held under a custodial
16 agreement at a bank. The bonds shall be rated at the time of
17 purchase within the 4 highest general classifications
18 established by a rating service of nationally recognized
19 expertise in rating bonds of states and their political
20 subdivisions.

21 (b) Investments may be made only in banks which are insured
22 by the Federal Deposit Insurance Corporation. Any public agency
23 may invest any public funds in ~~short-term discount~~ obligations
24 of the Federal National Mortgage Association or in shares or
25 other forms of securities legally issuable by savings banks or
26 savings and loan associations incorporated under the laws of
27 this State or any other state or under the laws of the United
28 States. Investments may be made only in those savings banks or
29 savings and loan associations the shares, or investment
30 certificates of which are insured by the Federal Deposit
31 Insurance Corporation. Any such securities may be purchased at
32 the offering or market price thereof at the time of such
33 purchase. All such securities so purchased shall mature or be
34 redeemable on a date or dates prior to the time when, in the
35 judgment of such governing authority, the public funds so
36 invested will be required for expenditure by such public agency

1 or its governing authority. The expressed judgment of any such
2 governing authority as to the time when any public funds will
3 be required for expenditure or be redeemable is final and
4 conclusive. Any public agency may invest any public funds in
5 dividend-bearing share accounts, share certificate accounts or
6 class of share accounts of a credit union chartered under the
7 laws of this State or the laws of the United States; provided,
8 however, the principal office of any such credit union must be
9 located within the State of Illinois. Investments may be made
10 only in those credit unions the accounts of which are insured
11 by applicable law.

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

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

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

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

31 (3) receive, in any manner, compensation of any kind
32 from any investments in which the agency is authorized to
33 invest.

34 (e) Any public agency may also invest any public funds in a
35 Public Treasurers' Investment Pool created under Section 17 of
36 the State Treasurer Act. Any public agency may also invest any

1 public funds in a fund managed, operated, and administered by a
2 bank, subsidiary of a bank, or subsidiary of a bank holding
3 company or use the services of such an entity to hold and
4 invest or advise regarding the investment of any public funds.

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

19 (g) A public agency may purchase or invest in repurchase
20 agreements of government securities having the meaning set out
21 in the Government Securities Act of 1986 subject to the
22 provisions of said Act and the regulations issued thereunder.
23 The government securities, unless registered or inscribed in
24 the name of the public agency, shall be purchased through banks
25 or trust companies authorized to do business in the State of
26 Illinois.

27 (h) Except for repurchase agreements of government
28 securities which are subject to the Government Securities Act
29 of 1986, no public agency may purchase or invest in instruments
30 which constitute repurchase agreements, and no financial
31 institution may enter into such an agreement with or on behalf
32 of any public agency unless the instrument and the transaction
33 meet the following requirements:

34 (1) The securities, unless registered or inscribed in
35 the name of the public agency, are purchased through banks
36 or trust companies authorized to do business in the State

1 of Illinois.

2 (2) An authorized public officer after ascertaining
3 which firm will give the most favorable rate of interest,
4 directs the custodial bank to "purchase" specified
5 securities from a designated institution. The "custodial
6 bank" is the bank or trust company, or agency of
7 government, which acts for the public agency in connection
8 with repurchase agreements involving the investment of
9 funds by the public agency. The State Treasurer may act as
10 custodial bank for public agencies executing repurchase
11 agreements. To the extent the Treasurer acts in this
12 capacity, he is hereby authorized to pass through to such
13 public agencies any charges assessed by the Federal Reserve
14 Bank.

15 (3) A custodial bank must be a member bank of the
16 Federal Reserve System or maintain accounts with member
17 banks. All transfers of book-entry securities must be
18 accomplished on a Reserve Bank's computer records through a
19 member bank of the Federal Reserve System. These securities
20 must be credited to the public agency on the records of the
21 custodial bank and the transaction must be confirmed in
22 writing to the public agency by the custodial bank.

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

26 (5) The security interest must be perfected.

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

30 (7) Agreements shall be for periods of 330 days or
31 less.

32 (8) The authorized public officer of the public agency
33 informs the custodial bank in writing of the maturity
34 details of the repurchase agreement.

35 (9) The custodial bank must take delivery of and
36 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
27 depository institutions as set forth in the Federal Financial
28 Institutions Examination Council Policy Statement Regarding
29 Repurchase Agreements and any regulations issued, or which may
30 be issued by the supervisory federal authority pertaining
31 thereto and any amendments thereto; provided further that the
32 securities shall be either (i) direct general obligations of,
33 or obligations the payment of the principal of and/or interest
34 on which are unconditionally guaranteed by, the United States
35 of America or (ii) any obligations of any agency, corporation
36 or subsidiary thereof controlled or supervised by and acting as

1 an instrumentality of the United States Government pursuant to
2 authority granted by the Congress of the United States and
3 provided further that the security interest must be perfected
4 by either the Illinois Housing Development Authority, its
5 custodian or its agent receiving possession of the securities
6 either physically or transferred through a nationally
7 recognized book entry system.

8 (j) In addition to all other investments authorized under
9 this Section, a community college district may invest public
10 funds in any mutual funds that invest primarily in corporate
11 investment grade or global government short term bonds.
12 Purchases of mutual funds that invest primarily in global
13 government short term bonds shall be limited to funds with
14 assets of at least \$100 million and that are rated at the time
15 of purchase as one of the 10 highest classifications
16 established by a recognized rating service. The investments
17 shall be subject to approval by the local community college
18 board of trustees. Each community college board of trustees
19 shall develop a policy regarding the percentage of the
20 college's investment portfolio that can be invested in such
21 funds.

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

25 (Source: P.A. 93-360, eff. 7-24-03.)

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.