



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1353

by Rep. Emily McAsey

SYNOPSIS AS INTRODUCED:

30 ILCS 235/2

from Ch. 85, par. 902

Amends the Public Funds Investment Act. Provides that park districts, forest preserve districts, and conservation districts may, like municipalities and counties, invest public funds in interest-bearing bonds of any political subdivision or agency of the State of Illinois, whether the interest earned is taxable or tax-exempt under federal law. Provides that bonds shall be registered in the name of the municipality, park district, forest preserve district, conservation district, or county. Effective immediately.

LRB098 08603 OMW 38721 b

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 270 days from the date of
5 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, or a county may invest its
18 public funds in interest bearing bonds of any county, township,
19 city, village, incorporated town, municipal corporation, or
20 school district, of the State of Illinois, of any other state,
21 or of any political subdivision or agency of the State of
22 Illinois or of any other state, whether the interest earned
23 thereon is taxable or tax-exempt under federal law. The bonds
24 shall be registered in the name of the municipality, park
25 district, forest preserve district, conservation district, or
26 county or held under a custodial agreement at a bank. The bonds

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

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

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

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

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

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

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

25 (3) receive, in any manner, compensation of any kind
26 from any investments in which the agency is authorized to

1 invest.

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

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

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

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

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

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

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

1 capacity, he is hereby authorized to pass through to such
2 public agencies any charges assessed by the Federal Reserve
3 Bank.

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

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

15 (5) The security interest must be perfected.

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

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

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

24 (9) The custodial bank must take delivery of and
25 maintain the securities in its custody for the account of
26 the public agency and confirm the transaction in writing to

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

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

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

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

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

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

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

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

8 (Source: P.A. 96-741, eff. 8-25-09; 97-129, eff. 7-14-11.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.