



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB3093

Introduced 2/19/2016, by Sen. Karen McConnaughay

#### SYNOPSIS AS INTRODUCED:

15 ILCS 520/6.1 new  
30 ILCS 235/2  
30 ILCS 235/6.1 new

from Ch. 85, par. 902

Amends the Deposit of State Moneys Act. Provides that nothing in the Act shall be construed as prohibiting a bank, savings bank, or credit union from submitting a proposal to the State Treasurer on the basis that it does not offer a product or service in this State, unless a specific requirement is noted in the public solicitation that is related to the product or service being solicited. Provides that the amendatory Act is not intended to limit the State Treasurer's discretion in the selection of a bank, savings bank, or credit union, as provided in the Act. Amends the Public Funds Investment Act to make a similar change concerning the submission of proposals to a public agency. 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.

LRB099 20644 MLM 45241 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 Deposit of State Moneys Act is amended by  
5 adding Section 6.1 as follows:

6 (15 ILCS 520/6.1 new)

7 Sec. 6.1. Submission of proposals. Nothing in this Act  
8 shall be construed as prohibiting a bank, savings bank, or  
9 credit union from submitting a proposal to the State Treasurer  
10 on the basis that it does not offer a product or service in  
11 this State, unless a specific requirement is noted in the  
12 public solicitation that is related to the product or service  
13 being solicited. Nothing in this Section is intended to limit  
14 the State Treasurer's discretion in the selection of a bank,  
15 savings bank, or credit union, as provided in this Act.

16 Section 10. The Public Funds Investment Act is amended by  
17 changing Section 2 and by adding Section 6.1 as follows:

18 (30 ILCS 235/2) (from Ch. 85, par. 902)

19 Sec. 2. Authorized investments.

20 (a) Any public agency may invest any public funds as  
21 follows:

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

5           (2) in bonds, notes, debentures, or other similar  
6           obligations of the United States of America, its agencies,  
7           and its instrumentalities;

8           (3) in interest-bearing savings accounts,  
9           interest-bearing certificates of deposit or  
10          interest-bearing time deposits or any other investments  
11          constituting direct obligations of any bank as defined by  
12          the Illinois Banking Act;

13          (4) in ~~short-term~~ obligations of corporations  
14          organized in the United States with assets exceeding  
15          \$500,000,000 if (i) such obligations are rated at the time  
16          of purchase at one of the 3 highest classifications  
17          established by at least 2 standard rating services and  
18          which mature not later than 3 years ~~270 days~~ from the date  
19          of purchase, (ii) such purchases do not exceed 10% of the  
20          corporation's outstanding obligations and (iii) no more  
21          than one-third of the public agency's funds may be invested  
22          in short term obligations of corporations; or

23          (5) in money market mutual funds registered under the  
24          Investment Company Act of 1940, provided that the portfolio  
25          of any such money market mutual fund is limited to  
26          obligations described in paragraph (1) or (2) of this

1 subsection and to agreements to repurchase such  
2 obligations.

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

20 (b) Investments may be made only in banks which are insured  
21 by the Federal Deposit Insurance Corporation. Any public agency  
22 may invest any public funds in short term discount obligations  
23 of the Federal National Mortgage Association or in shares or  
24 other forms of securities legally issuable by savings banks or  
25 savings and loan associations incorporated under the laws of  
26 this State or any other state or under the laws of the United

1 States. Investments may be made only in those savings banks or  
2 savings and loan associations the shares, or investment  
3 certificates of which are insured by the Federal Deposit  
4 Insurance Corporation. Any such securities may be purchased at  
5 the offering or market price thereof at the time of such  
6 purchase. All such securities so purchased shall mature or be  
7 redeemable on a date or dates prior to the time when, in the  
8 judgment of such governing authority, the public funds so  
9 invested will be required for expenditure by such public agency  
10 or its governing authority. The expressed judgment of any such  
11 governing authority as to the time when any public funds will  
12 be required for expenditure or be redeemable is final and  
13 conclusive. Any public agency may invest any public funds in  
14 dividend-bearing share accounts, share certificate accounts or  
15 class of share accounts of a credit union chartered under the  
16 laws of this State or the laws of the United States; provided,  
17 however, the principal office of any such credit union must be  
18 located within the State of Illinois. Investments may be made  
19 only in those credit unions the accounts of which are insured  
20 by applicable law.

21 (c) For purposes of this Section, the term "agencies of the  
22 United States of America" includes: (i) the federal land banks,  
23 federal intermediate credit banks, banks for cooperative,  
24 federal farm credit banks, or any other entity authorized to  
25 issue debt obligations under the Farm Credit Act of 1971 (12  
26 U.S.C. 2001 et seq.) and Acts amendatory thereto; (ii) the

1 federal home loan banks and the federal home loan mortgage  
2 corporation; and (iii) any other agency created by Act of  
3 Congress.

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

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

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

14 (3) receive, in any manner, compensation of any kind  
15 from any investments in which the agency is authorized to  
16 invest.

17 (e) Any public agency may also invest any public funds in a  
18 Public Treasurers' Investment Pool created under Section 17 of  
19 the State Treasurer Act. Any public agency may also invest any  
20 public funds in a fund managed, operated, and administered by a  
21 bank, subsidiary of a bank, or subsidiary of a bank holding  
22 company or use the services of such an entity to hold and  
23 invest or advise regarding the investment of any public funds.

24 (f) To the extent a public agency has custody of funds not  
25 owned by it or another public agency and does not otherwise  
26 have authority to invest such funds, the public agency may

1 invest such funds as if they were its own. Such funds must be  
2 released to the appropriate person at the earliest reasonable  
3 time, but in no case exceeding 31 days, after the private  
4 person becomes entitled to the receipt of them. All earnings  
5 accruing on any investments or deposits made pursuant to the  
6 provisions of this Act shall be credited to the public agency  
7 by or for which such investments or deposits were made, except  
8 as provided otherwise in Section 4.1 of the State Finance Act  
9 or the Local Governmental Tax Collection Act, and except where  
10 by specific statutory provisions such earnings are directed to  
11 be credited to and paid to a particular fund.

12 (g) A public agency may purchase or invest in repurchase  
13 agreements of government securities having the meaning set out  
14 in the Government Securities Act of 1986, as now or hereafter  
15 amended or succeeded, subject to the provisions of said Act and  
16 the regulations issued thereunder. The government securities,  
17 unless registered or inscribed in the name of the public  
18 agency, shall be purchased through banks or trust companies  
19 authorized to do business in the State of Illinois.

20 (h) Except for repurchase agreements of government  
21 securities which are subject to the Government Securities Act  
22 of 1986, as now or hereafter amended or succeeded, no public  
23 agency may purchase or invest in instruments which constitute  
24 repurchase agreements, and no financial institution may enter  
25 into such an agreement with or on behalf of any public agency  
26 unless the instrument and the transaction meet the following

1 requirements:

2 (1) The securities, unless registered or inscribed in  
3 the name of the public agency, are purchased through banks  
4 or trust companies authorized to do business in the State  
5 of Illinois.

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

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



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

4           (5) The security interest must be perfected.

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

8           (7) Agreements shall be for periods of 330 days or  
9 less.

10          (8) The authorized public officer of the public agency  
11 informs the custodial bank in writing of the maturity  
12 details of the repurchase agreement.

13          (9) The custodial bank must take delivery of and  
14 maintain the securities in its custody for the account of  
15 the public agency and confirm the transaction in writing to  
16 the public agency. The Custodial Undertaking shall provide  
17 that the custodian takes possession of the securities  
18 exclusively for the public agency; that the securities are  
19 free of any claims against the trading partner; and any  
20 claims by the custodian are subordinate to the public  
21 agency's claims to rights to those securities.

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

1           (11) The custodial bank shall be liable to the public  
2           agency for any monetary loss suffered by the public agency  
3           due to the failure of the custodial bank to take and  
4           maintain possession of such securities.

5           (i) Notwithstanding the foregoing restrictions on  
6           investment in instruments constituting repurchase agreements  
7           the Illinois Housing Development Authority may invest in, and  
8           any financial institution with capital of at least \$250,000,000  
9           may act as custodian for, instruments that constitute  
10          repurchase agreements, provided that the Illinois Housing  
11          Development Authority, in making each such investment,  
12          complies with the safety and soundness guidelines for engaging  
13          in repurchase transactions applicable to federally insured  
14          banks, savings banks, savings and loan associations or other  
15          depository institutions as set forth in the Federal Financial  
16          Institutions Examination Council Policy Statement Regarding  
17          Repurchase Agreements and any regulations issued, or which may  
18          be issued by the supervisory federal authority pertaining  
19          thereto and any amendments thereto; provided further that the  
20          securities shall be either (i) direct general obligations of,  
21          or obligations the payment of the principal of and/or interest  
22          on which are unconditionally guaranteed by, the United States  
23          of America or (ii) any obligations of any agency, corporation  
24          or subsidiary thereof controlled or supervised by and acting as  
25          an instrumentality of the United States Government pursuant to  
26          authority granted by the Congress of the United States and

1 provided further that the security interest must be perfected  
2 by either the Illinois Housing Development Authority, its  
3 custodian or its agent receiving possession of the securities  
4 either physically or transferred through a nationally  
5 recognized book entry system.

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

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

23 (Source: P.A. 97-129, eff. 7-14-11; 98-297, eff. 1-1-14;  
24 98-390, eff. 8-16-13; 98-756, eff. 7-16-14.)

1       Sec. 6.1. Submission of proposals. Nothing in this Act  
2       shall be construed as prohibiting a bank, savings bank, or  
3       credit union from submitting a proposal to a public agency on  
4       the basis that it does not offer a product or service in this  
5       State, unless a specific requirement is noted in the public  
6       solicitation that is related to the product or service being  
7       solicited. Nothing in this Section is intended to limit a  
8       public agency's discretion in the selection of a bank, savings  
9       bank, or credit union as provided in this Act.

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