

1 AMENDMENT TO HOUSE BILL 131

2 AMENDMENT NO. _____. Amend House Bill 131 by replacing
3 the title with the following:

4 "AN ACT concerning public funds."; and

5 by replacing everything after the enacting clause with the
6 following:

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

9 (30 ILCS 235/2) (from Ch. 85, par. 902)

10 Sec. 2. Authorized investments.

11 (a) Any public agency may invest any public funds as
12 follows:

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

18 (2) in bonds, notes, debentures, or other similar
19 obligations of the United States of America or its
20 agencies;

21 (3) in interest-bearing savings accounts,

1 interest-bearing certificates of deposit or
2 interest-bearing time deposits or any other investments
3 constituting direct obligations of any bank as defined by
4 the Illinois Banking Act;

5 (4) in short term obligations of corporations
6 organized in the United States with assets exceeding
7 \$500,000,000 if (i) such obligations are rated at the
8 time of purchase at one of the 3 highest classifications
9 established by at least 2 standard rating services and
10 which mature not later than 180 days from the date of
11 purchase, (ii) such purchases do not exceed 10% of the
12 corporation's outstanding obligations and (iii) no more
13 than one-third of the public agency's funds may be
14 invested in short term obligations of corporations; or

15 (5) in money market mutual funds registered under
16 the Investment Company Act of 1940, provided that the
17 portfolio of any such money market mutual fund is limited
18 to obligations described in paragraph (1) or (2) of this
19 subsection and to agreements to repurchase such
20 obligations.

21 (a-1) In addition to any other investments authorized
22 under this Act, a municipality may invest its public funds in
23 interest bearing bonds of any county, township, city,
24 village, incorporated town, municipal corporation, or school
25 district. The bonds shall be registered in the name of the
26 municipality or held under a custodial agreement at a bank.
27 The bonds shall be rated at the time of purchase within the 4
28 highest general classifications established by a rating
29 service of nationally recognized expertise in rating bonds of
30 states and their political subdivisions.

31 (a-2) In addition to the authority available to invest
32 funds, a public agency may authorize and upon that
33 authorization the treasurer of any public agency may join
34 with the treasurers of other public agencies for the purpose

1 of jointly investing the funds of which the treasurer has
2 custody and the sole legal authority to invest. Any
3 multijurisdictional fund that is established to receive such
4 joint investments shall maintain one of the 2 highest ratings
5 available from at least one standard rating service. These
6 funds shall be limited to investment instruments that are
7 explicitly cited as authorized investments under this Act and
8 shall have a written investment policy in compliance with
9 State law. All fees, ratings, investment policies, and annual
10 accounting of these funds shall be fully disclosed and shall
11 be made publicly available through printed or electronic
12 report. A copy of this report shall be provided to the office
13 of the State Treasurer and to the General Assembly. Investors
14 in these funds shall avail themselves of current training in
15 public funds management, such as that offered by State or
16 national professional associations or by the Office of the
17 State Treasurer.

18 The joint investments shall be sufficiently liquid as to
19 be redeemable on a date or dates before the time when, in the
20 judgment of the public agency, the public funds so invested
21 will be required for expenditure by the public agency or its
22 governing authority.

23 (b) Investments may be made only in banks which are
24 insured by the Federal Deposit Insurance Corporation. Any
25 public agency may invest any public funds in short term
26 discount obligations of the Federal National Mortgage
27 Association or in shares or other forms of securities legally
28 issuable by savings banks or savings and loan associations
29 incorporated under the laws of this State or any other state
30 or under the laws of the United States. Investments may be
31 made only in those savings banks or savings and loan
32 associations the shares, or investment certificates of which
33 are insured by the Federal Deposit Insurance Corporation. Any
34 such securities may be purchased at the offering or market

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

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

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

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

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

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

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

14 (f) To the extent a public agency has custody of funds
15 not owned by it or another public agency and does not
16 otherwise have authority to invest such funds, the public
17 agency may invest such funds as if they were its own. Such
18 funds must be released to the appropriate person at the
19 earliest reasonable time, but in no case exceeding 31 days,
20 after the private person becomes entitled to the receipt of
21 them. All earnings accruing on any investments or deposits
22 made pursuant to the provisions of this Act shall be credited
23 to the public agency by or for which such investments or
24 deposits were made, except as provided otherwise in Section
25 4.1 of the State Finance Act or the Local Governmental Tax
26 Collection Act, and except where by specific statutory
27 provisions such earnings are directed to be credited to and
28 paid to a particular fund.

29 (g) A public agency may purchase or invest in repurchase
30 agreements of government securities having the meaning set
31 out in the Government Securities Act of 1986 subject to the
32 provisions of said Act and the regulations issued thereunder.
33 The government securities, unless registered or inscribed in
34 the name of the public agency, shall be purchased through

1 banks or trust companies authorized to do business in the
2 State of Illinois.

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

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

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

27 (3) A custodial bank must be a member bank of the
28 Federal Reserve System or maintain accounts with member
29 banks. All transfers of book-entry securities must be
30 accomplished on a Reserve Bank's computer records through
31 a member bank of the Federal Reserve System. These
32 securities must be credited to the public agency on the
33 records of the custodial bank and the transaction must be
34 confirmed in writing to the public agency by the

1 custodial bank.

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

5 (5) The security interest must be perfected.

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

10 (7) Agreements shall be for periods of 330 days or
11 less.

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

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

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

30 (11) The custodial bank shall be liable to the
31 public agency for any monetary loss suffered by the
32 public agency due to the failure of the custodial bank to
33 take and maintain possession of such securities.

34 (i) Notwithstanding the foregoing restrictions on

1 investment in instruments constituting repurchase agreements
2 the Illinois Housing Development Authority may invest in, and
3 any financial institution with capital of at least
4 \$250,000,000 may act as custodian for, instruments that
5 constitute repurchase agreements, provided that the Illinois
6 Housing Development Authority, in making each such
7 investment, complies with the safety and soundness guidelines
8 for engaging in repurchase transactions applicable to
9 federally insured banks, savings banks, savings and loan
10 associations or other depository institutions as set forth in
11 the Federal Financial Institutions Examination Council Policy
12 Statement Regarding Repurchase Agreements and any regulations
13 issued, or which may be issued by the supervisory federal
14 authority pertaining thereto and any amendments thereto;
15 provided further that the securities shall be either (i)
16 direct general obligations of, or obligations the payment of
17 the principal of and/or interest on which are unconditionally
18 guaranteed by, the United States of America or (ii) any
19 obligations of any agency, corporation or subsidiary thereof
20 controlled or supervised by and acting as an instrumentality
21 of the United States Government pursuant to authority granted
22 by the Congress of the United States and provided further
23 that the security interest must be perfected by either the
24 Illinois Housing Development Authority, its custodian or its
25 agent receiving possession of the securities either
26 physically or transferred through a nationally recognized
27 book entry system.

28 (j) In addition to all other investments authorized
29 under this Section, a community college district may invest
30 public funds in any mutual funds that invest primarily in
31 corporate investment grade or global government short term
32 bonds. Purchases of mutual funds that invest primarily in
33 global government short term bonds shall be limited to funds
34 with assets of at least \$100 million and that are rated at

1 the time of purchase as one of the 10 highest classifications
2 established by a recognized rating service. The investments
3 shall be subject to approval by the local community college
4 board of trustees. Each community college board of trustees
5 shall develop a policy regarding the percentage of the
6 college's investment portfolio that can be invested in such
7 funds.

8 Nothing in this Section shall be construed to authorize
9 an intergovernmental risk management entity to accept the
10 deposit of public funds except for risk management purposes.
11 (Source: P.A. 90-319, eff. 8-1-97.)"