

SB0273



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0273

Introduced 2/19/2021, by Sen. Donald P. DeWitte

SYNOPSIS AS INTRODUCED:

30 ILCS 235/2

from Ch. 85, par. 902

Amends the Public Funds Investment Act. Authorizes public agencies to invest public funds in obligations of corporations organized in the United States with assets exceeding \$500,000,000 if, among other requirements, no more than two-thirds (currently, one-third) of the public agency's funds are invested in obligations of corporations. Effective immediately.

LRB102 10289 RJF 15616 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
12 issued, which are guaranteed by the full faith and credit
13 of the United States of America as to principal and
14 interest;

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

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

23 (4) in obligations of corporations organized in the

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (g) A public agency may purchase or invest in repurchase
26 agreements of government securities having the meaning set out

1 in the Government Securities Act of 1986, as now or hereafter
2 amended or succeeded, subject to the provisions of said Act
3 and the regulations issued thereunder. The government
4 securities, unless registered or inscribed in the name of the
5 public agency, shall be purchased through banks or trust
6 companies authorized to do business in the State of Illinois.

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

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

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

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

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

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

18 (5) The security interest must be perfected.

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

22 (7) Agreements shall be for periods of 330 days or
23 less.

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

1 (9) The custodial bank must take delivery of and
2 maintain the securities in its custody for the account of
3 the public agency and confirm the transaction in writing
4 to the public agency. The Custodial Undertaking shall
5 provide that the custodian takes possession of the
6 securities exclusively for the public agency; that the
7 securities are free of any claims against the trading
8 partner; and any claims by the custodian are subordinate
9 to the public agency's claims to rights to those
10 securities.

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

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

20 (i) Notwithstanding the foregoing restrictions on
21 investment in instruments constituting repurchase agreements
22 the Illinois Housing Development Authority may invest in, and
23 any financial institution with capital of at least
24 \$250,000,000 may act as custodian for, instruments that
25 constitute repurchase agreements, provided that the Illinois
26 Housing Development Authority, in making each such investment,

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

21 (j) In addition to all other investments authorized under
22 this Section, a community college district may invest public
23 funds in any mutual funds that invest primarily in corporate
24 investment grade or global government short term bonds.
25 Purchases of mutual funds that invest primarily in global
26 government short term bonds shall be limited to funds with

1 assets of at least \$100 million and that are rated at the time
2 of purchase as one of the 10 highest classifications
3 established by a recognized rating service. The investments
4 shall be subject to approval by the local community college
5 board of trustees. Each community college board of trustees
6 shall develop a policy regarding the percentage of the
7 college's investment portfolio that can be invested in such
8 funds.

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

12 (Source: P.A. 100-752, eff. 8-10-18.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.