

1 AN ACT concerning State government.

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, 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 ~~180~~ 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 may invest its public funds in
17 interest bearing bonds of any county, township, city, village,
18 incorporated town, municipal corporation, or school district,
19 of the State of Illinois, of any other state, or of any
20 political subdivision or agency of the State of Illinois or of
21 any other state, whether the interest earned thereon is taxable
22 or tax-exempt under federal law. The bonds shall be registered
23 in the name of the municipality or held under a custodial
24 agreement at a bank. The bonds shall be rated at the time of
25 purchase within the 4 highest general classifications
26 established by a rating service of nationally recognized

1 expertise in rating bonds of states and their political
2 subdivisions.

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

1 located within the State of Illinois. Investments may be made
2 only in those credit unions the accounts of which are insured
3 by applicable law.

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

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

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

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

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

26 (e) Any public agency may also invest any public funds in a

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

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

21 (g) A public agency may purchase or invest in repurchase
22 agreements of government securities having the meaning set out
23 in the Government Securities Act of 1986, as now or hereafter
24 amended or succeeded, subject to the provisions of said Act and
25 the regulations issued thereunder. The government securities,
26 unless registered or inscribed in the name of the public

1 agency, shall be purchased through banks or trust companies
2 authorized to do business in the State of Illinois.

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

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

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

1 Bank.

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

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

13 (5) The security interest must be perfected.

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

17 (7) Agreements shall be for periods of 330 days or
18 less.

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

22 (9) The custodial bank must take delivery of and
23 maintain the securities in its custody for the account of
24 the public agency and confirm the transaction in writing to
25 the public agency. The Custodial Undertaking shall provide
26 that the custodian takes possession of the securities

1 exclusively for the public agency; that the securities are
2 free of any claims against the trading partner; and any
3 claims by the custodian are subordinate to the public
4 agency's claims to rights to those securities.

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

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

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

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

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

1 college's investment portfolio that can be invested in such
2 funds.

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

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

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.