



Rep. Emily McAsey

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1 AMENDMENT TO HOUSE BILL 2101

2 AMENDMENT NO. _____. Amend House Bill 2101 by replacing
3 everything after the enacting clause with the following:

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;

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

6 (4) in short term obligations of corporations
7 organized in the United States with assets exceeding
8 \$500,000,000 if (i) such obligations are rated at the time
9 of purchase at one of the 3 highest classifications
10 established by at least 2 standard rating services and
11 which mature not later than 270 days from the date of
12 purchase, (ii) such purchases do not exceed 10% of the
13 corporation's outstanding obligations and (iii) no more
14 than one-third of the public agency's funds may be invested
15 in short term obligations of corporations; or

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

22 (a-1) In addition to any other investments authorized under
23 this Act, a municipality or a county may invest its public
24 funds in interest bearing bonds of any county, township, city,
25 village, incorporated town, municipal corporation, or school
26 district, of the State of Illinois, of any other state, or of

1 any political subdivision or agency of the State of Illinois or
2 of any other state, whether the interest earned thereon is
3 taxable or tax-exempt under federal law. The bonds shall be
4 registered in the name of the municipality or county or held
5 under a custodial agreement at a bank. The bonds shall be rated
6 at the time of purchase within the 4 highest general
7 classifications established by a rating service of nationally
8 recognized expertise in rating bonds of states and their
9 political subdivisions.

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

1 governing authority as to the time when any public funds will
2 be required for expenditure or be redeemable is final and
3 conclusive. Any public agency may invest any public funds in
4 dividend-bearing share accounts, share certificate accounts or
5 class of share accounts of a credit union chartered under the
6 laws of this State or the laws of the United States; provided,
7 however, the principal office of any such credit union must be
8 located within the State of Illinois. Investments may be made
9 only in those credit unions the accounts of which are insured
10 by applicable law.

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

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

26 (1) have any interest, directly or indirectly, in any

1 investments in which the agency is authorized to invest.

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

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

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

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

1 be credited to and paid to a particular fund.

2 (g) A public agency may purchase or invest in repurchase
3 agreements of government securities having the meaning set out
4 in the Government Securities Act of 1986, as now or hereafter
5 amended or succeeded, subject to the provisions of said Act and
6 the regulations issued thereunder. The government securities,
7 unless registered or inscribed in the name of the public
8 agency, shall be purchased through banks or trust companies
9 authorized to do business in the State of Illinois.

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

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

22 (2) An authorized public officer after ascertaining
23 which firm will give the most favorable rate of interest,
24 directs the custodial bank to "purchase" specified
25 securities from a designated institution. The "custodial
26 bank" is the bank or trust company, or agency of

1 government, which acts for the public agency in connection
2 with repurchase agreements involving the investment of
3 funds by the public agency. The State Treasurer may act as
4 custodial bank for public agencies executing repurchase
5 agreements. To the extent the Treasurer acts in this
6 capacity, he is hereby authorized to pass through to such
7 public agencies any charges assessed by the Federal Reserve
8 Bank.

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

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

20 (5) The security interest must be perfected.

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

24 (7) Agreements shall be for periods of 330 days or
25 less.

26 (8) The authorized public officer of the public agency

1 informs the custodial bank in writing of the maturity
2 details of the repurchase agreement.

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

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

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

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

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

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

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

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

13 (Source: P.A. 96-741, eff. 8-25-09.)

14 Section 10. The Counties Code is amended by changing
15 Sections 3-10009, 3-11002, 3-11003, 3-11004, 3-11006, 3-11007,
16 3-11009, 3-11010, 3-11011, 3-11013, and 3-11018 as follows:

17 (55 ILCS 5/3-10009) (from Ch. 34, par. 3-10009)

18 Sec. 3-10009. Deposit of public funds.

19 (a) In counties having a population of less than 150,000
20 the county board, when requested by the county treasurer, shall
21 designate one or more banks, ~~or~~ savings and loan associations, ~~or~~
22 savings banks, or credit unions in which the funds and other
23 public moneys in the custody of the county treasurer may be
24 kept and when a bank, ~~or~~ savings and loan association, savings

1 bank, or credit union has been designated as a depository it
2 shall continue as such until 10 days have elapsed after a new
3 depository is designated and has qualified by furnishing the
4 statements of resources and liabilities as is required by this
5 Section. When a new depository is designated, the county board
6 shall notify the sureties of the county treasurer of that fact,
7 in writing, at least 5 days before the transfer of funds. The
8 county treasurer shall be discharged from responsibility for
9 all funds and moneys which he deposits in a depository so
10 designated while such funds and moneys are so deposited.

11 No bank, ~~or~~ savings and loan association, savings bank, or
12 credit union shall receive public funds as permitted by this
13 Section, unless it has complied with the requirements
14 established pursuant to Section 6 of "An Act relating to
15 certain investments of public funds by public agencies",
16 approved July 23, 1943, as now or hereafter amended.

17 (b) In addition to any other investments or deposits
18 authorized under this Code, counties are authorized to invest
19 the funds and public moneys in the custody of the county
20 treasurer in accordance with the Public Funds Investment Act.

21 (Source: P.A. 86-962.)

22 (55 ILCS 5/3-11002) (from Ch. 34, par. 3-11002)

23 Sec. 3-11002. Designation of depositories.

24 (a) In counties having a population of more than 150,000
25 the county board, when requested by the County Treasurer, shall

1 designate one or more banks, ~~or~~ savings and loan associations, ~~or~~
2 savings banks, or credit unions in which the funds and other
3 public moneys in the custody of the County Treasurer may be
4 kept and when a bank, ~~or~~ savings and loan association, savings
5 bank, or credit union has been designated as a depository it
6 shall continue as such until 10 days have elapsed after a new
7 depository is designated and has qualified by furnishing the
8 statements of resources and liabilities as is required by this
9 Section. When a new depository is designated, the county board
10 shall notify the sureties of the County Treasurer of that fact,
11 in writing, at least 5 days before the transfer of funds. The
12 County Treasurer shall be discharged from responsibility for
13 all funds and moneys which he deposits in a depository so
14 designated while such funds and moneys are so deposited.

15 No bank, ~~or~~ savings and loan association, savings bank, or
16 credit union shall receive public funds as permitted by this
17 Section, unless it has complied with the requirements
18 established pursuant to Section 6 of "An Act relating to
19 certain investments of public funds by public agencies",
20 approved July 23, 1943, as now or hereafter amended.

21 (b) In addition to any other investments or deposits
22 authorized under this Code, counties are authorized to invest
23 the funds and public moneys in the custody of the County
24 Treasurer in accordance with the Public Funds Investment Act.

25 (Source: P.A. 86-962.)

1 (55 ILCS 5/3-11003) (from Ch. 34, par. 3-11003)

2 Sec. 3-11003. Classification of funds. For the purpose of
3 establishing a control over the withdrawal, in accordance with
4 the provisions of this Division, of all county moneys deposited
5 in any bank, ~~or~~ savings and loan association, savings bank, or
6 credit union, as hereinafter required, such moneys are hereby
7 classified as follows:

8 Class A. All taxes and special assessments received by the
9 county treasurer in his capacity as ex officio county collector
10 or ex officio town collector, and held by him pending
11 distribution to the several governments or authorities
12 entitled to receive the same, shall be known as "Class A"
13 funds.

14 Class B. All other moneys belonging to the State of
15 Illinois or to any political or corporate subdivision thereof,
16 except the county, shall be known as "Class B" funds.

17 Class C. All moneys belonging to the county in its
18 corporate capacity shall be known as "Class C" funds.

19 Class D. All other county moneys as defined in Section
20 3-11001 shall be known as "Class D" funds.

21 (Source: P.A. 86-962.)

22 (55 ILCS 5/3-11004) (from Ch. 34, par. 3-11004)

23 Sec. 3-11004. Deposits by county treasurer. It shall be the
24 duty of the county treasurer of such county to deposit daily,
25 in separate accounts in accordance with the classification set

1 forth in Section 3-11003, to the credit of the county treasurer
2 of such county, in one or more banks, ~~or~~ savings and loan
3 associations, savings banks, or credit unions as shall have
4 been selected and designated under the terms of this Division
5 and as shall have complied with the requirements thereof, all
6 county moneys as defined in Section 3-11001, received by him
7 during banking hours, and also all such county moneys as he may
8 have received on the day previous after banking hours.

9 (Source: P.A. 86-962.)

10 (55 ILCS 5/3-11006) (from Ch. 34, par. 3-11006)

11 Sec. 3-11006. Investment of county moneys; release of
12 private funds in custody of county treasurer.

13 (a) All county moneys shall be invested in one or more of
14 the following: (1) ~~(a)~~ interest-bearing savings accounts,
15 interest-bearing certificates of deposit or interest-bearing
16 time deposits constituting direct obligations of any bank as
17 shall have been selected and designated under the terms of this
18 Division and as shall have complied with the requirements
19 thereof; (2) ~~(b)~~ shares or other forms of securities legally
20 issuable by savings and loan associations incorporated under
21 the laws of this State or any other state or under the laws of
22 the United States, provided such shares or securities are
23 insured by the Federal Savings and Loan Insurance Corporation;
24 (3) ~~(c)~~ bonds, notes, certificates of indebtedness, treasury
25 bills or other securities now or hereafter issued, which are

1 guaranteed by the full faith and credit of the United States of
2 America as to principal and interest; (4) ~~(d)~~ short term
3 discount obligations of the Federal National Mortgage
4 Association; and (5) dividend-bearing share accounts, share
5 certificate accounts, or class of share accounts of a credit
6 union chartered under the laws of this State or the laws of the
7 United States, provided the accounts of that credit union are
8 insured by applicable law and the credit union's principal
9 office is located within the State of Illinois. The expressed
10 judgment of the county treasurer as to the time when any county
11 moneys will be required for expenditure or be redeemable is
12 final and conclusive. Privately owned funds held in the custody
13 of a county treasurer must be released to the appropriate party
14 at the earliest reasonable time, but in no case exceeding 31
15 days, after the private party becomes entitled to the receipt
16 of them.

17 (b) In addition to any other investments or deposits
18 authorized under this Code, all counties are authorized to
19 invest county moneys in accordance with the Public Funds
20 Investment Act.

21 (Source: P.A. 86-962.)

22 (55 ILCS 5/3-11007) (from Ch. 34, par. 3-11007)

23 Sec. 3-11007. Monthly report of investments and deposits.
24 On the twenty-eighth day of each month the county treasurer
25 shall publish a report disclosing the investments and deposits

1 of county moneys as of the first day of that month. The report
2 shall list, under the name of each bank, ~~or~~ savings and loan
3 association, savings bank, or credit union in which the county
4 treasurer maintains an account or investment, each separate
5 account or investment maintained in that institution, the
6 amount of each such account or investment, the rate of interest
7 of each such account or investment, and the term of maturity of
8 each such account or investment. The report shall also disclose
9 the total cost and average rate of interest of all other
10 investments of county moneys. A copy of the report shall be
11 transmitted to each member of the county board, and the report
12 shall be a public record.

13 (Source: P.A. 86-962.)

14 (55 ILCS 5/3-11009) (from Ch. 34, par. 3-11009)

15 Sec. 3-11009. Petty cash fund. For the purpose of enabling
16 the county treasurer to pay in cash such warrants and other
17 demands as may be presented to him for payment in cash, he is
18 hereby authorized to withhold from the daily deposit of funds
19 required of him under Section 3-11004, or to withdraw from the
20 one or more banks, ~~or~~ savings and loan associations, savings
21 banks, or credit unions holding such county moneys on deposit,
22 upon check or draft payable to his own order as county
23 treasurer, such amounts as will enable him to maintain a petty
24 cash fund sufficient to meet the daily demand for the purpose
25 herein indicated: Provided, however, that the amount of said

1 petty cash fund shall at no time exceed the sum of \$5,000 in
2 counties having fewer than 1,000,000 inhabitants or the sum of
3 \$200,000 in counties having 1,000,000 or more inhabitants. The
4 county treasurer shall keep proper records of such petty cash
5 fund, showing the amounts so withheld or withdrawn by him daily
6 and the amounts paid out by him in cash from day to day. Such
7 records shall be open to the inspection of all persons wishing
8 to examine the same.

9 (Source: P.A. 86-962.)

10 (55 ILCS 5/3-11010) (from Ch. 34, par. 3-11010)

11 Sec. 3-11010. Equalization and transfer of deposits. For
12 the purpose of facilitating the equalization or apportionment
13 of the amount of the balances on deposit with the several
14 depositories and the speedy transfer of money from one
15 depository to another in case of necessity, the county
16 treasurer is hereby authorized to draw checks or drafts against
17 any deposit made by him under the terms of this Division. Each
18 draft or check so drawn shall be payable to the order of the
19 county treasurer, and shall indicate upon its face that it is
20 drawn only for deposit in a bank, ~~or~~ savings and loan
21 association, savings bank, or credit union authorized under the
22 provisions of this Division to receive county moneys.

23 (Source: P.A. 86-962.)

24 (55 ILCS 5/3-11011) (from Ch. 34, par. 3-11011)

1 Sec. 3-11011. Designation of active depository. Of the
2 banks, ~~or~~ savings and loan associations, savings banks, or
3 credit unions which may have been so designated as
4 depositories, one shall be designated from time to time by the
5 county treasurer as the active bank, depository, ~~or~~ savings and
6 loan association, savings bank, or credit union for a period of
7 not more than one month at a time. The county board shall have
8 power, if it sees fit, to require that no bank, ~~or~~ savings and
9 loan association, savings bank, or credit union whose aggregate
10 capital stock and surplus is less than a certain specified
11 amount shall be named as the active bank, ~~or~~ savings and loan
12 association, savings bank, or credit union. During such period
13 the county treasurer shall draw all of his checks to pay
14 warrants and other demands drawn upon him upon such active
15 bank, ~~or~~ savings and loan association, savings bank, or credit
16 union: Provided, however, that the county treasurer shall have
17 power to withdraw county moneys from any depository for the
18 purposes stated in Section 3-11010: And, provided, further,
19 that during such period drafts and checks against deposit of
20 funds designated by Section 3-11003 hereof as "Class A" funds
21 and "Class B" funds may be drawn upon other than the active
22 bank, ~~or~~ savings and loan association, savings bank, or credit
23 union.

24 (Source: P.A. 86-962.)

25 (55 ILCS 5/3-11013) (from Ch. 34, par. 3-11013)

1 Sec. 3-11013. Annual report of interest received. The
2 county treasurer shall make to the county clerk an annual
3 report, under oath, of all interest received by the county
4 treasurer or credited to the county treasurer by any bank, ~~or~~
5 savings and loan association, savings bank, or credit union, in
6 which is deposited any county moneys, and at the time of making
7 such report the county treasurer shall pay into the county
8 treasury for the benefit of the county the aggregate amount of
9 all interest so received by or credited to him, as shown by
10 said report. Such report shall show the name of each bank or
11 depository where any county moneys are deposited.

12 (Source: P.A. 86-962.)

13 (55 ILCS 5/3-11018) (from Ch. 34, par. 3-11018)

14 Sec. 3-11018. Payment of interest or fees on deposits. No
15 bank, ~~or~~ savings and loan association, savings bank, or credit
16 union holding county moneys deposited therewith by the county
17 treasurer in accordance with the provisions in this Division,
18 or otherwise, and no officer of any such bank, ~~or~~ savings and
19 loan association, savings bank, or credit union, or other
20 person, shall pay to, withhold for the benefit of, or contract
21 in any manner for the payment to such county treasurer, or to
22 any other person for him, of any interest or other fee,
23 perquisite or emolument, on account of the deposit of such
24 county moneys, except such interest as shall be paid to such
25 county treasurer for the benefit of the county.

1 (Source: P.A. 86-962.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".