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BILL



ANALYSIS

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Senate Bill 1517 (as enacted)
House Bill 6297 (as enacted)
Sponsor: Senator Tony Stamas
Representative Ed Clemente
Senate Committee: Banking and Financial Institutions
House Committee: Banking and Financial Services

PUBLIC ACT 308 of 2008
PUBLIC ACT 307 of 2008

Date Completed: 2-13-09

CONTENT

Senate Bill 1517 amended Public Act 20 of 1943, which regulates the investment of funds of public corporations, to allow the governing body of a public corporation to authorize its investment officer to invest the funds of the public corporation in certificates of deposit (CDs) in insured depository institutions. House Bill 6297 amended the Revised School Code to allow the treasurer of a school district or intermediate school district, if authorized by the school board or intermediate school board, to invest funds in CDs in insured depository institutions. Under both bills, the investment must be made in accordance with specified conditions.

The bills were tie-barred to each other and took effect on December 18, 2008.

Senate Bill 1517

Under the Public Act 20 of 1943, the governing body of a public corporation by resolution may authorize its investment officer to invest the funds of that public corporation in one or more of the following:

-- Bonds, securities, and other obligations of the United States or an agency or

instrumentality of the United States or repurchase agreements consisting of these instruments.

- Certificates of deposit, savings accounts, deposit accounts, or depository receipts of a financial institution, but only if the financial institution is eligible to be a depository of funds belonging to the State under a law or rule of this State or the United States.
- Commercial paper that is rated at the time of purchase within the two highest classifications established by at least two standard rating services and that matures within 270 days after the date of purchase.
- Bankers' acceptances of United States banks.
- Obligations of this State or any of its political subdivisions that at the time of purchase are rated as investment grade by at least one standard rating service.
- Mutual funds registered under the Investment Company Act of 1940, with authority to purchase only investment vehicles that are legal for direct investment by a public corporation.
- Obligations described above if purchased through an interlocal agreement under the Urban Cooperation Act.

- Investment pools organized under the Surplus Funds Investment Pool Act or under the Local Government Investment Pool Act.

A public corporation that invests its funds as described above may not deposit or invest the funds in a financial institution that is not eligible to be a depository of funds belonging to the State under a law or rule of this State or the United States. Under the bill, this applies except as provided below.

Under the bill, an investment officer also may invest the funds of the public corporation in CDs in accordance with all of the following conditions:

- The funds are initially invested through a financial institution that is not ineligible to be a depository of surplus funds belonging to this State under section 6 of Public Act 105 of 1855.
- The financial institution arranges for the investment of the funds in CDs in one or more insured depository institutions as defined in Section 1813 of the Federal Deposit Insurance Act, 12 USC 1813, for the account of the public corporation.
- The full amount of the principal and any accrued interest of each CD is insured by an agency of the United States.
- The financial institution acts as custodian for the public corporation with respect to each CD.
- At the same time that the funds are deposited and the CD or CDs are issued, the financial institution receives an amount of deposits from customers of other insured depository institutions equal to or greater than the amount of the funds initially invested by the public corporation through the financial institution.

A public corporation that initially invests its funds through a financial institution that maintains an office in this State may invest the funds in CDs as provided in the bill.

(Under Section 6 of Public Act 105 of 1855, if a financial institution is found by a

State or Federal agency or a court having jurisdiction over that financial institution, to have engaged in an illegal discriminatory lending practice relating to a mortgage loan or home improvement loan application, the Commissioner of Financial and Insurance Regulation, if he or she considers it appropriate, must initiate a proceeding to determine whether additional surplus funds belonging to the State will be deposited in that financial institution.

Under 12 USC 1813, "insured depository institution" means any bank or savings association whose deposits are insured by the Federal Deposit Insurance Corporation.

Public Act 20 of 1943 defines "public corporation" as a county, city, village, township, port district, drainage district, special assessment district, or metropolitan district of this State, or a board, commission, or another authority or agency created by or under an act of the Legislature of this State.)

House Bill 6297

Under the Revised School Code, the treasurer of an intermediate school district (ISD), if authorized by resolution of the intermediate school board, may invest general operating funds, special education funds, area vocational-technical education funds, building and site funds, cooperative education funds, and debt retirement funds of the district. Investments are restricted to any of the following:

- Bonds, bills, or notes of the United States or obligations of this State.
- Certificates of deposit issued by a financial institution.
- Commercial paper rated prime at the time of purchase and maturing within 270 days after the date of purchase.
- Securities issued or guaranteed by agencies or instrumentalities of the United States government.
- United States government or Federal agency obligation repurchase agreements.

- Bankers' acceptances issued by a bank that is a member of the Federal Deposit Insurance Corporation.
- Investment pools, as authorized by the Surplus Funds Investment Pool Act composed entirely of instruments that are legal for direct investment by an ISD.
- Mutual funds composed entirely of investment vehicles that are legal for direct investment by an ISD.

If authorized by resolution of the board of a school district, the treasurer of the school district may invest debt retirement funds, building and site funds, building and site sinking funds, or general funds of the district. Investments are restricted to those described above and the following:

- Obligations whose principal and interest are fully guaranteed by the United States, or obligations of this State.
- Share certificates of a State or Federal credit union that is a financial institution.

Under the bill, the treasurer of an ISD or school district also may invest the funds of the ISD or school district in CDs in accordance with the same conditions as prescribed by Senate Bill 1517 for investment officers investing funds of public corporations in CDs.

MCL 129.91 (S.B. 1517)
380.622 & 380.1223 (H.B. 6297)

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bills will have no effect on State revenue or expenditures. The bills will affect the net revenue of public corporations, school districts, and ISDs by an unknown amount depending on how the bills influence the rate of return on investments of affected public corporations or districts. Presumably, use of the additional instruments will produce higher rates of return at a potentially lower cost and thus increase net revenue to the public corporations or districts from such investments.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.