

HOUSE BILL No. 5289

January 26, 2012, Introduced by Reps. Ouimet, McBroom, Womack and Knollenberg and referred to the Committee on Banking and Financial Services.

A bill to amend 1943 PA 20, entitled

"An act relative to the investment of funds of public corporations of the state; and to validate certain investments,"

by amending section 1 (MCL 129.91), as amended by 2009 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) Except as provided in section 5, the governing
2 body by resolution may authorize its investment officer to invest
3 the funds of that public corporation in 1 or more of the following:

4 (a) Bonds, securities, and other obligations of the United
5 States or an agency or instrumentality of the United States.

6 (b) Certificates of deposit, savings accounts, ~~deposit~~
7 ~~accounts,~~ or depository receipts of a financial institution, but
8 only if the financial institution complies with subsection (2); ~~or~~
9 ~~or~~ certificates of deposit obtained through a financial institution
10 as provided in subsection (5); **OR DEPOSIT ACCOUNTS OF A FINANCIAL**

1 **INSTITUTION AS PROVIDED IN SUBSECTION (6) .**

2 (c) Commercial paper rated at the time of purchase within the
3 2 highest classifications established by not less than 2 standard
4 rating services and that matures not more than 270 days after the
5 date of purchase.

6 (d) Repurchase agreements consisting of instruments listed in
7 subdivision (a).

8 (e) Bankers' acceptances of United States banks.

9 (f) Obligations of this state or any of its political
10 subdivisions that at the time of purchase are rated as investment
11 grade by not less than 1 standard rating service.

12 (g) Mutual funds registered under the investment company act
13 of 1940, ~~title I of chapter 686, 54 Stat. 789,~~ 15 USC 80a-1 to ~~80a-~~
14 ~~3 and 80a-4 to 80a-64,~~ with authority to purchase only investment
15 vehicles that are legal for direct investment by a public
16 corporation. However, a mutual fund is not disqualified as a
17 permissible investment solely by reason of ~~either~~ **ANY** of the
18 following:

19 (i) The purchase of securities on a when-issued or delayed
20 delivery basis.

21 (ii) The ability to lend portfolio securities as long as the
22 mutual fund receives collateral at all times equal to at least 100%
23 of the value of the securities loaned.

24 (iii) The limited ability to borrow and pledge a like portion of
25 the portfolio's assets for temporary or emergency purposes.

26 (h) Obligations described in subdivisions (a) through (g) if
27 purchased through an interlocal agreement under the urban

1 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
2 124.512.

3 (i) Investment pools organized under the surplus funds
4 investment pool act, 1982 PA 367, MCL 129.111 to 129.118.

5 (j) The investment pools organized under the local government
6 investment pool act, 1985 PA 121, MCL 129.141 to 129.150.

7 (2) Except as provided in subsection (5), a public corporation
8 that invests its funds under subsection (1) shall not deposit or
9 invest the funds in a financial institution that is not eligible to
10 be a depository of funds belonging to this state under a law or
11 rule of this state or the United States.

12 (3) Assets acceptable for pledging to secure deposits of
13 public funds are limited to assets authorized for direct investment
14 under subsection (1).

15 (4) The governing body by resolution may authorize its
16 investment officer to enter into written agreements with other
17 public corporations to pool or coordinate the funds to be invested
18 under this section with the funds of other public corporations.
19 Agreements allowed under this subsection shall include all of the
20 following:

21 (a) The types of investments permitted to be purchased with
22 pooled funds.

23 (b) The rights of members of the pool to withdraw funds from
24 the pooled investments without penalty.

25 (c) The duration of the agreement and the requirement that the
26 agreement shall not commence until at least 60 days after the
27 public corporations entering the agreement give written notice to

1 an existing local government investment pool which is organized
2 ~~pursuant to~~ **UNDER** the local government investment pool act, 1985 PA
3 121, MCL 129.141 to 129.150, in those counties where such a pool is
4 operating and accepting deposits on or before September 29, 2006.

5 (d) The method by which the pool will be administered.

6 (e) The manner by which the public corporations will respond
7 to liabilities incurred in conjunction with the administration of
8 the pool.

9 (f) The manner in which strict accountability for all funds
10 will be provided for, including an annual statement of all receipts
11 and disbursements.

12 (g) The manner by which the public corporations will adhere to
13 the requirements of section 5.

14 (5) In addition to the investments authorized under subsection
15 (1), the governing body by resolution may authorize its investment
16 officer to invest the funds of the public corporation in
17 certificates of deposit in accordance with all of the following
18 conditions:

19 (a) The funds are initially invested through a financial
20 institution that is not ineligible to be a depository of surplus
21 funds belonging to this state under section 6 of 1855 PA 105, MCL
22 21.146.

23 (b) The financial institution arranges for the investment of
24 the funds in certificates of deposit in 1 or more insured
25 depository institutions, as defined in 12 USC 1813, or 1 or more
26 insured credit unions, as defined in 12 USC 1752, for the account
27 of the public corporation.

1 (c) The full amount of the principal and any accrued interest
2 of each certificate of deposit is insured by an agency of the
3 United States.

4 (d) The financial institution acts as custodian for the public
5 corporation with respect to each certificate of deposit.

6 (e) At the same time that the funds of the public corporation
7 are deposited and the certificate or certificates of deposit are
8 issued, the financial institution receives an amount of deposits
9 from customers of other insured depository institutions or insured
10 credit unions equal to or greater than the amount of the funds
11 initially invested by the public corporation through the financial
12 institution.

13 (6) IN ADDITION TO THE INVESTMENTS AUTHORIZED UNDER SUBSECTION
14 (1), THE GOVERNING BODY BY RESOLUTION MAY AUTHORIZE ITS INVESTMENT
15 OFFICER TO INVEST THE FUNDS OF THE PUBLIC CORPORATION IN DEPOSIT
16 ACCOUNTS THAT MEET ALL OF THE FOLLOWING CONDITIONS:

17 (A) THE FUNDS ARE INITIALLY DEPOSITED IN A FINANCIAL
18 INSTITUTION THAT IS NOT INELIGIBLE TO BE A DEPOSITORY OF SURPLUS
19 FUNDS BELONGING TO THIS STATE UNDER SECTION 6 OF 1855 PA 105, MCL
20 21.146.

21 (B) THE FINANCIAL INSTITUTION ARRANGES FOR THE DEPOSIT OF THE
22 FUNDS IN DEPOSIT ACCOUNTS IN 1 OR MORE INSURED DEPOSITORY
23 INSTITUTIONS, AS DEFINED IN 12 USC 1813, OR 1 OR MORE INSURED
24 CREDIT UNIONS, AS DEFINED IN 12 USC 1752, FOR THE ACCOUNT OF THE
25 PUBLIC CORPORATION.

26 (C) THE FULL AMOUNT OF THE PRINCIPAL AND ANY ACCRUED INTEREST
27 OF EACH DEPOSIT ACCOUNT IS INSURED BY AN AGENCY OF THE UNITED

1 STATES.

2 (D) THE FINANCIAL INSTITUTION ACTS AS CUSTODIAN FOR THE PUBLIC
3 CORPORATION WITH RESPECT TO EACH DEPOSIT ACCOUNT.

4 (E) ON THE SAME DATE THAT THE FUNDS OF THE PUBLIC CORPORATION
5 ARE DEPOSITED UNDER SUBDIVISION (B), THE FINANCIAL INSTITUTION
6 RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF OTHER INSURED
7 DEPOSITORY INSTITUTIONS OR INSURED CREDIT UNIONS EQUAL TO OR
8 GREATER THAN THE AMOUNT OF THE FUNDS INITIALLY DEPOSITED BY THE
9 PUBLIC CORPORATION IN THE FINANCIAL INSTITUTION.

10 (7) ~~(6)~~—A public corporation that initially invests its funds
11 through a financial institution that maintains an office located in
12 this state may invest the funds in certificates of deposit as
13 provided under subsection (5).

14 (8) ~~(7)~~—As used in this section, "financial institution" means
15 a state or nationally chartered bank or a state or federally
16 chartered savings and loan association, savings bank, or credit
17 union whose deposits are insured by an agency of the United States
18 government and that maintains a principal office or branch office
19 located in this state under the laws of this state or the United
20 States.

21 (9) ~~(8)~~—As used in this act:

22 (a) "Governing body" means the legislative body, council,
23 commission, board, or other body having legislative powers of a
24 public corporation.

25 (b) "Funds" means the money of a public corporation, the
26 investment of which is not otherwise subject to a public act of
27 this state or bond authorizing ordinance or resolution of a public

1 corporation that permits investment in fewer than all of the
2 investment options listed in subsection (1) or imposes 1 or more
3 conditions upon an investment in an option listed in subsection
4 (1) .

5 (c) "Investment officer" means the treasurer or other person
6 designated by statute or charter of a public corporation to act as
7 the investment officer. In the absence of a statutory or charter
8 designation, the governing body of a public corporation shall
9 designate the investment officer.

10 (d) "Public corporation" means a county, city, village,
11 township, port district, drainage district, special assessment
12 district, or metropolitan district of this state, or a board,
13 commission, or another authority or agency created by or under an
14 act of the legislature of this state.