

HOUSE BILL NO. 6155

November 26, 2024, Introduced by Rep. Fitzgerald and referred to the Committee on Local Government and Municipal Finance.

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 sections 1, 5, 7, and 7a (MCL 129.91, 129.95, 129.97,
and 129.97a), section 1 as amended by 2012 PA 152, section 5 as
added by 1997 PA 196, section 7 as added by 2008 PA 220, and
section 7a as added by 2008 PA 404.

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

1 the funds of ~~that~~ **the governing body's** public corporation in 1 or
 2 more of the following:

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

5 (b) Dollar-denominated bonds, notes, debentures, mortgage
 6 pass-throughs, debt securities, or other obligations of any
 7 enterprise sponsored by the United States, any agency of the United
 8 States, or any instrumentality of the United States, including, but
 9 not limited to, debt securities issued by the following:

10 (i) The Government National Mortgage Association (GNMA).

11 (ii) The Federal National Mortgage Association (FNMA).

12 (iii) The Federal Home Loan Mortgage Corporation (FHLMC).

13 (iv) The various Federal Home Loan Banks (FHLB).

14 (v) The Federal Agricultural Mortgage Corporation (Farmer
 15 Mac).

16 (vi) The Tennessee Valley Authority (TVA).

17 (vii) The Small Business Association (SBA).

18 (viii) The Federal Farm Credit Banks Funding Corporation (FFCB).

19 (ix) The Export-Import Bank of the United States.

20 (c) ~~(b) Certificates of deposit, savings accounts, Savings~~
 21 **accounts** or depository receipts of a financial institution, but
 22 only if the financial institution complies with subsection (2), ~~+~~
 23 ~~certificates of deposit obtained through a financial institution as~~
 24 ~~provided in subsection (5); or deposit accounts of a financial~~
 25 ~~institution as provided in~~ **under** subsection (6).

26 (d) ~~Certificates of deposit of a finance business, but only if~~
 27 **the finance business complies with subsection (2), or certificates**
 28 **of deposit obtained through a financial institution under**
 29 **subsection (5). As used in this subdivision, "finance business"**

1 means a state or nationally chartered bank or a state or federally
2 chartered savings and loan association, savings bank, or credit
3 union whose deposits are insured by an agency of the United States
4 under the laws of this state, any other state, or the United
5 States.

6 (e) ~~(e)~~ Commercial paper rated at the time of purchase within
7 the 2 highest classifications established by not less than 2
8 standard rating services and that matures not more than 270 days
9 after the date of purchase.

10 (f) The acquisition or holding of corporate bonds, notes,
11 debentures, or debt securities with a credit rating at the time of
12 purchase within the category of A or higher or the equivalent by
13 not less than 1 nationally recognized statistical ratings
14 organization and that matures not more than 5 years after the date
15 of settlement. Investments under this subdivision must not exceed
16 25% of public funds. Not more than 5% of public funds may be
17 invested in securities under this subdivision from any 1 issuer. To
18 purchase, acquire, or hold securities under this subdivision, 1 of
19 the following conditions must be met:

20 (i) The public corporation acquires the securities using a
21 registered investment adviser, a state or nationally chartered
22 bank, or an insurance company licensed to do business in this
23 state. The relationship between the public corporation and the
24 registered investment adviser, state or nationally chartered bank,
25 or insurance company must be fiduciary in nature and is subject to
26 the Michigan prudent investor rule, sections 1501 to 1512 of the
27 estates and protected individuals code, 1998 PA 386, MCL 700.1501
28 to 700.1512.

29 (ii) The public corporation is a qualified institutional buyer

1 as that term is defined in 17 CFR 230.144A, and the investment
2 officer and other designees who invest funds of the public
3 corporation complete an approved training course and maintain the
4 certification or designation as it relates to investing public
5 funds. The state treasurer shall maintain and publish a list of
6 approved certifications or designations. Approved certifications or
7 designations include, but are not limited to, all of the following:

8 (A) Certified public funds investment manager and advanced
9 certified public funds investment manager by the Association of
10 Public Treasurers of the United States and Canada.

11 (B) Chartered financial analyst by the CFA Institute.

12 (C) Certified financial planner by the Certified Financial
13 Planner Board of Standards.

14 (D) Chartered financial consultant by the American College of
15 Financial Services.

16 (E) Accredited asset management specialist by the College for
17 Financial Planning.

18 (F) Certified investment management analyst by the Investments
19 and Wealth Institute.

20 (G) Certified fixed income practitioner by the Fixed Income
21 Academy.

22 (H) Certified government investment professional by the
23 Government Investment Officers Association.

24 (g) ~~(d)~~—Repurchase agreements consisting of instruments listed
25 in subdivision (a).

26 (h) ~~(e)~~—Bankers' acceptances of United States banks.

27 (i) ~~(f)~~—Obligations of this state or any of ~~its~~**this state's**
28 political subdivisions that at the time of purchase are rated as
29 investment grade by not less than 1 ~~standard rating~~

1 ~~service-nationally recognized statistical ratings organization.~~

2 (j) Obligations of any state other than this state or any
3 political subdivision of any state other than this state that at
4 the time of purchase have a credit rating within the category of AA
5 or higher or the equivalent by not less than 1 nationally
6 recognized statistical ratings organization.

7 (k) ~~(g)~~—Mutual funds registered under the investment company
8 act of 1940, 15 USC 80a-1 to 80a-64, with authority to purchase
9 only investment vehicles that are legal for direct investment by a
10 public corporation. However, a mutual fund is not disqualified as a
11 permissible investment solely by reason of any of the following:

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

14 (ii) The ability to lend portfolio securities ~~as long as~~ **if** the
15 mutual fund receives collateral at all times equal to at least 100%
16 of the value of the securities loaned.

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

19 (l) ~~(h)~~—Obligations described in subdivisions (a) ~~through to~~
20 (g) if purchased through an interlocal agreement under the urban
21 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
22 124.512.

23 (m) ~~(i)~~—Investment pools organized under the surplus funds
24 investment pool act, 1982 PA 367, MCL 129.111 to 129.118.

25 (n) ~~(j)~~—The investment pools organized under the local
26 government investment pool act, 1985 PA 121, MCL 129.141 to
27 129.150.

28 (2) Except as provided in subsection (5), a public corporation
29 that invests its funds under subsection (1) shall not deposit or

1 invest the funds in a financial institution that is not eligible to
 2 be a depository of funds belonging to this state under a law or
 3 rule of this state or the United States.

4 (3) Assets acceptable for pledging to secure deposits of
 5 public funds are limited to assets authorized for direct investment
 6 under subsection (1).

7 (4) The governing body by resolution may authorize its
 8 investment officer to enter into written agreements with other
 9 public corporations to pool or coordinate the funds to be invested
 10 under this section with the funds of other public corporations.
 11 Agreements allowed under this subsection ~~shall~~**must** include all of
 12 the following:

13 (a) The types of investments permitted to be purchased with
 14 pooled funds.

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

17 (c) The duration of the agreement and the requirement that the
 18 agreement ~~shall~~**must** not commence until ~~at least~~**not less than** 60
 19 days after the public corporations entering the agreement give
 20 written notice to an existing local government investment pool
 21 ~~which~~**that** is organized under the local government investment pool
 22 act, 1985 PA 121, MCL 129.141 to 129.150, in those counties where
 23 ~~such a~~ **local government investment** pool is operating and accepting
 24 deposits on or before September 29, 2006.

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

26 (e) The manner by which the public corporations will respond
 27 to liabilities incurred in conjunction with the administration of
 28 the pool.

29 (f) The manner in which strict accountability for all funds

1 will be provided for, including an annual statement of all receipts
2 and disbursements.

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

5 (5) In addition to the investments authorized under subsection
6 (1), the governing body by resolution may authorize its investment
7 officer to invest the funds of the public corporation in
8 certificates of deposit ~~in accordance with~~ **if** all of the following
9 conditions **are met**:

10 (a) The funds are initially invested through a financial
11 institution that is not ineligible to be a depository of surplus
12 funds belonging to this state under section 6 of 1855 PA 105, MCL
13 21.146.

14 (b) The financial institution arranges for the investment of
15 the funds in certificates of deposit in 1 or more insured
16 depository institutions, as defined in 12 USC 1813, or 1 or more
17 insured credit unions, as defined in 12 USC 1752, for the account
18 of the public corporation.

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

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

24 (e) ~~At the same time that~~ **When** the funds of the public
25 corporation are deposited and the certificate or certificates of
26 deposit are issued, the financial institution receives an amount of
27 deposits from customers of other insured depository institutions or
28 insured credit unions equal to or greater than the amount of the
29 funds initially invested by the public corporation through the

1 financial institution.

2 (6) In addition to the investments authorized under subsection
3 (1), the governing body by resolution may authorize its investment
4 officer to invest the funds of the public corporation in deposit
5 accounts ~~that meet~~ **if** all of the following conditions **are met**:

6 (a) The funds are initially deposited in a financial
7 institution that is not ineligible to be a depository of surplus
8 funds belonging to this state under section 6 of 1855 PA 105, MCL
9 21.146.

10 (b) The financial institution arranges for the deposit of the
11 funds in deposit accounts in 1 or more insured depository
12 institutions, as defined in 12 USC 1813, or 1 or more insured
13 credit unions, as defined in 12 USC 1752, for the account of the
14 public corporation.

15 (c) The full amount of the principal and any accrued interest
16 of each deposit account is insured by an agency of the United
17 States.

18 (d) The financial institution acts as custodian for the public
19 corporation with respect to each deposit account.

20 (e) ~~On the same date that~~ **When** the funds of the public
21 corporation are deposited under subdivision (b), the financial
22 institution receives an amount of deposits from customers of other
23 insured depository institutions or insured credit unions equal to
24 or greater than the amount of the funds initially deposited by the
25 public corporation in the financial institution.

26 (7) A public corporation that initially invests its funds
27 through a financial institution ~~that maintains an office located in~~
28 ~~this state~~ may invest the funds in certificates of deposit as
29 provided under subsection (5).

1 (8) As used in this section, "financial institution" means a
2 state or nationally chartered bank or a state or federally
3 chartered savings and loan association, savings bank, or credit
4 union whose deposits are insured by an agency of the United States
5 government and that maintains a principal office or branch office
6 located in this state under the laws of this state or the United
7 States.

8 (9) As used in this act:

9 (a) "Governing body" means the legislative body, council,
10 commission, board, or other body having legislative powers of a
11 public corporation.

12 (b) "Funds" means the money of a public corporation, the
13 investment of which is not otherwise subject to a public act of
14 this state or bond authorizing ordinance or resolution of a public
15 corporation that permits investment in fewer than all of the
16 investment options listed in subsection (1) or imposes 1 or more
17 conditions upon an investment in an option listed in subsection
18 (1).

19 (c) "Investment officer" means the treasurer or other person
20 designated by statute or charter of a public corporation to act as
21 the investment officer. In the absence of a statutory or charter
22 designation, the governing body of a public corporation shall
23 designate the investment officer.

24 (d) "Public corporation" means a county, city, village,
25 township, port district, drainage district, special assessment
26 district, or metropolitan district of this state, or a board,
27 commission, or another authority or agency created by or under an
28 act of the legislature of this state.

29 Sec. 5. (1) Not more than 180 days after the end of a public

1 corporation's first fiscal year that ends after the effective date
2 of the amendatory act that ~~repealed section 2,~~ **added subsection**
3 **(3)**, a governing body, in consultation with the investment officer,
4 shall adopt an investment policy that, at a minimum, includes all
5 of the following:

6 (a) A statement of the purpose, scope, and objectives of the
7 policy, including safety, diversification, liquidity, and return on
8 investment.

9 (b) A delegation of authority to make investments.

10 (c) A list of authorized investment instruments. If the policy
11 authorizes an investment in mutual funds, it ~~shall~~ **must** indicate
12 whether the authorization is limited to securities whose intention
13 is to maintain a net asset value of \$1.00 per share or also
14 includes securities whose net asset value per share may fluctuate
15 on a periodic basis.

16 (d) A statement concerning safekeeping, custody, and prudence.

17 (2) A governing body that as of the effective date of the
18 amendatory act that ~~repealed section 2~~ **added subsection (3)** has
19 adopted an investment policy that substantially complies with the
20 minimum requirements under subsection (1) is not in violation of
21 this section as long as that policy remains in effect.

22 **(3) Beginning no later than 1 year after the end of the public**
23 **corporation's first fiscal year that ends after the effective date**
24 **of the amendatory act that added this subsection, public**
25 **corporations shall file their approved investment policy under this**
26 **section annually with the Michigan department of treasury. If a**
27 **public corporation has approved an amendment to their investment**
28 **policy under this section, the public corporation shall file their**
29 **investment policy, as amended, with the department of treasury of**

1 this state no later than 180 days after the end of the public
2 corporation's first fiscal year that ends after the effective date
3 of the amendatory act that added this subsection. The department of
4 treasury of this state shall determine the manner and method of the
5 filings required under this subsection.

6 Sec. 7. Notwithstanding any law or charter provision to the
7 contrary, if a public corporation has a long-term or perpetual
8 trust fund, ~~consisting of money and royalties or money derived from~~
9 ~~oil and gas exploration on property or mineral rights owned by the~~
10 ~~public corporation,~~ the governing body of the public corporation
11 may by resolution provide its investment officer with the same
12 authority to invest the assets of the long-term or perpetual trust
13 fund as is granted an investment fiduciary under the public
14 employee retirement system investment act, 1965 PA 314, MCL 38.1132
15 to ~~38.1140m.~~ **38.1141.**

16 Sec. 7a. (1) Notwithstanding any law or charter to the
17 contrary, if a public corporation has a special revenue fund
18 consisting of payments for ~~park operations and maintenance,~~ **the**
19 **perpetual maintenance of public buildings and facilities,** the
20 governing body of the public corporation may by resolution provide
21 its investment officer with the same authority to invest the assets
22 of the special revenue fund as is granted an investment fiduciary
23 under the public employee retirement system investment act, 1965 PA
24 314, MCL 38.1132 to ~~38.1140m.~~ **38.1141.**

25 (2) The investment officer shall prepare and issue an annual
26 special revenue fund report. The investment officer shall make the
27 annual special revenue fund report available to the citizens of the
28 public corporation. The annual special revenue fund report ~~shall~~
29 **must** include all of the following:

- 1 (a) The name of the special revenue fund.
- 2 (b) The special revenue fund's investment fiduciaries.
- 3 (c) The special revenue fund's assets and liabilities.
- 4 (d) The special revenue fund's funded ratio.
- 5 (e) The special revenue fund's investment performance.
- 6 (f) The special revenue fund's expenses.