

SURPLUS FUNDS IN TREASURY (EXCERPT)
Act 105 of 1855

21.142b Investment of surplus funds; terms and conditions; valid public purpose; investment agreement; amount of investment; earnings; list of eligible projects; conditions to approval of eligible project; duty of director and state treasurer; definitions; effect of general obligation bonds; use of bond proceeds to promote solid waste management.

Sec. 2b.

(1) The state treasurer may invest surplus funds under the state treasurer's control with a financial institution, investment company, insurance company, or other legal entity entitled to receive an investment, which investment may be in the form of a deposit, repurchase agreement, guaranteed investment contract, banker's acceptances, or other security evidencing the obligation of the entity receiving the investments to repay the investment under the terms and conditions contained in an investment agreement, including the rate of return, if any, to be received on the investment.

(2) An investment made under this section is found and declared to be for a valid public purpose.

(3) In addition to the terms and conditions that may be prescribed by the investment agreement, the investment agreement shall also provide for the following:

(a) The character, extent, and nature of security necessary for the investment.

(b) That the investment shall be loaned to the Michigan municipal bond authority for the purpose of the Michigan municipal bond authority investing the proceeds of that loan in a manner consistent with and pursuant to the shared credit rating act, Act No. 227 of the Public Acts of 1985, being sections 141.1051 to 141.1078 of the Michigan Compiled Laws, to produce a return available to the Michigan municipal bond authority solely for the purpose of structuring, assisting, or benefiting an eligible project or to pay principal and interest on any proceeds of an obligation of the Michigan municipal bond authority which are used to benefit an eligible project.

(c) The term of the investment.

(4) The amount of any investment made pursuant to this subsection shall not exceed 10% of the average balance of the state common cash fund during the 30 days preceding the date on which the list of eligible projects is submitted to the joint capital outlay subcommittee, calculated after other investments made pursuant to this section have been deducted.

(5) Earnings from an investment made pursuant to this section in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1, 2, or 2a, shall be credited to the general fund of the state. If interest from an investment made pursuant to this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1, 2, or 2a, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made pursuant to this section shall reduce the earnings on the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(6) Not less than 30 days before an investment is made pursuant to this section the director and the state treasurer shall prepare and submit to the members of the joint capital outlay subcommittee of the appropriations subcommittees of the legislature a list of projects that the director and the state treasurer determine are eligible projects and the local units in which the eligible projects are located. Upon the approval of the joint capital outlay subcommittee, the state treasurer may execute the investment authorized by this section.

(7) A project shall not be approved by the director and the state treasurer as an eligible project unless all of the following conditions are met:

(a) The director determines that the project is located in a county that has an approved solid waste management plan.

(b) The director determines that the project is consistent with the approved solid waste management plan.

(c) The director determines that the project has all the permits that are required by state law that are specifically applicable to the nature of the proposed project.

(d) If the project is a waste to energy facility, the director determines that the facility utilizes the best available control technology and that the resultant ash is tested for toxicity and appropriate disposal is assured.

(e) If the project is a waste to energy facility, the project either includes the recycling of the recyclable portion of the project's projected waste stream, or the project application includes a recycling feasibility analysis or other available information that indicates that recycling is not necessary or feasible, or is only necessary or feasible to a limited extent and that adding such a component to the project would not be economically feasible. If any local unit within a county which has an approved solid waste management plan operates a recycling project or receives funding pursuant to part 191 (clean Michigan fund) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.19101 to 324.19121 of the Michigan Compiled Laws, for a

recycling project that included an analysis of the feasibility of recycling in the county in which the project is located, the requirements of this subdivision shall be met for all local units within the planning area.

(f) The state treasurer determines that the project meets the requirements of this section, that the project is economically feasible, and that no similar project that is economically feasible without the expenditure of state funds is proceeding in a timely manner and has made application with the director for any permit or license necessary for construction or operation in the county in which the project is located.

(8) The director and the state treasurer shall work together to assure that eligible projects are economically viable and will assist in developing and encouraging methods for the disposal of solid waste that are environmentally sound and maximize the use and reuse of valuable resources.

(9) As used in this section:

(a) "Authority" means the Michigan municipal bond authority created in Act No. 227 of the Public Acts of 1985.

(b) "Best available control technology" means best available control technology as defined in section 169 of subpart I of part C of title I of the clean air act, chapter 360, 91 stat. 740, 42 U.S.C. 7479.

(c) "Director" means the director of the department of environmental quality or his or her authorized representative.

(d) "Eligible project" means 1 or more of the following projects of a local unit that have been approved by the director and the state treasurer, including costs associated with a project necessary for issuance of evidences of indebtedness to finance the project:

(i) The construction, improvement, acquisition, or enlargement of a waste to energy facility.

(ii) The construction, improvement, acquisition, or enlargement of a solid waste transfer facility.

(iii) The construction, improvement, or enlargement of a recycling project or the acquisition of recycling equipment.

(iv) The construction, improvement, or enlargement of a composting project or the acquisition of composting equipment.

(e) "Local units" means a city, village, township, county, or an authority created by or pursuant to state law, or any combination thereof if authorized by state law to act jointly.

(f) "Composting project", "recycling project", "solid waste", "solid waste transfer facility", and "waste to energy" have the meaning ascribed to them in part 191 of Act No. 451 of the Public Acts of 1994.

(10) Notwithstanding any other provision of this act, the state treasurer shall not invest additional surplus funds in the manner and for the purposes provided in this section after the electors approve the issuance of general obligation bonds in accordance with section 15 of article IX of the state constitution of 1963 and not less than \$250,000,000.00 of the proceeds of those bonds is to be used to promote solid waste management in the state by funding eligible projects or similar solid waste management projects, promoting solid waste reduction, upgrading or closing existing landfills, or providing educational and technical assistance regarding solid waste management.

History: Add. 1987, Act 118, Eff. Oct. 1, 1987 ;-- Am. 1996, Act 31, Imd. Eff. Feb. 26, 1996