

STATE MONEY MANAGEMENT ACT AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: David H. Steele

AN ACT RELATING TO THE STATE MONEY MANAGEMENT ACT; CLARIFYING REQUIREMENTS FOR CERTAIN INVESTMENTS AUTHORIZED BY THE ACT; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

51-7-17, as last amended by Chapter 133, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **51-7-17** is amended to read:

51-7-17. Criteria for investments.

(1) As used in this section:

(a) "Affiliate" means, in relation to any provider:

(i) any entity controlled, directly or indirectly, by the provider;

(ii) any entity that controls, directly or indirectly, the provider; or

(iii) any entity directly or indirectly under common control with the provider.

(b) "Control" means ownership of a majority of the voting power of the entity or provider.

~~(1)~~ (2) (a) All public treasurers shall consider and meet the following objectives when depositing and investing public funds:

(i) safety of principal;

(ii) need for liquidity;

(iii) yield on investments;

(iv) recognition of the different investment objectives of operating and permanent funds;

and

(v) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds.

(b) Each public treasurer shall invest the proceeds of general obligation bond issues, tax

anticipation note issues, and all funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds and tax anticipation notes issued by the state or any political subdivision of the state in accordance with Section 51-7-11 or in accordance with the terms of the borrowing instrument applicable to those issues and funds if those terms are more restrictive than Section 51-7-11.

(c) Each public treasurer shall invest the proceeds of bonds other than general obligation bonds and the proceeds of notes other than tax anticipation notes issued by the state or any political subdivision of the state, and all funds pledged or otherwise dedicated to the payment of interest and principal of those notes and bonds, in accordance with the terms of the borrowing instruments applicable to those bonds or notes, or if none of those provisions are applicable, in accordance with Section 51-7-11.

(d) Each public treasurer may invest proceeds of bonds, notes, or other moneys pledged or otherwise dedicated to the payment of debt service on the bonds or notes in investment agreements if:

(i) the investment is permitted by the terms of the borrowing instrument applicable to those bonds or notes or the borrowing instrument authorizes the investment as an investment permitted by the State Money Management Act;

(ii) either the provider of the investment agreement or an entity fully, unconditionally, and irrevocably guaranteeing the provider's obligations under the investment agreement has received a rating of:

(A) at least "AA-" from S&P or "Aa3" from Moody's for investment agreements having a term of more than one year; or

(B) at least "A-1+" from S&P or "P-1" from Moody's for investment agreements having a term of one year or less;

(iii) the investment agreement contains provisions approved by the public treasurer that provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating downgrade of a nonaffiliate guarantor by either S&P or Moody's below the "AA" category or its equivalent, the

provider must, within 30 days after receipt of notice of the downgrade, either:

(A) collateralize the investment agreement with direct obligations of or obligations guaranteed by the United States of America having a market value at least equal to 105% of the amount of the monies invested, valued at least quarterly, and deposit the collateral with a third-party custodian or trustee selected by the public treasurer; or

(B) terminate the agreement without penalty and repay all of the principal invested and the interest accrued on the investment to the date of termination; and

(iv) the public treasurer receives an enforceability opinion from the legal counsel of the investment agreement provider and, if there is a guarantee, an enforceability opinion from the legal counsel of the guarantor with respect to the guarantee.

~~[(2)]~~ (3) (a) As used in this Subsection (3), "interest rate contract" means interest rate exchange contracts, interest rate floor contracts, interest rate ceiling contracts, and other similar contracts authorized by resolution of the governing board or issuing authority, as applicable.

(b) A public treasurer may:

(i) enter into interest rate contracts that the governing board or issuing authority determines are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use its public funds to satisfy its payment obligations under those contracts.

(c) Those contracts:

(i) shall comply with the requirements established by council rules; and

(ii) may contain payment, security, default, termination, remedy, and other terms and conditions that the governing board or issuing authority considers appropriate.

(d) Neither interest rate contracts nor public funds used in connection with these interest rate contracts may be considered a deposit or investment.

~~[(3)]~~ (4) It is the intent of the Legislature that all public funds invested in deposit instruments be invested with qualified depositories within Utah, except that if national market rates on instruments of similar quality and term exceed those offered by qualified depositories, investments in out-of-state deposit instruments may be made only with those institutions that meet quality criteria set forth by

the rules of the council.