

MONEY MANAGEMENT ACT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the State Money Management Act by amending provisions relating to money management.

Highlighted Provisions:

This bill:

- specifies the term to final maturity for certain deposits or investments that are invested by a public agency insurance mutual;
- authorizes the state treasurer, county, city, and town treasurers, the clerk or treasurer of each school district, and other public treasurers to procure crime or theft insurance;
- modifies political party requirements for members of the State Money Management Council;
- provides that the State Money Management Council may authorize an exception to certain maturity dates in certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



AMENDS:

51-7-11, as last amended by Laws of Utah 2015, Chapter 171

51-7-15, as last amended by Laws of Utah 2013, Chapters 278 and 388

51-7-16, as last amended by Laws of Utah 2010, Chapter 286

51-7-23, as last amended by Laws of Utah 2015, Chapter 171

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

Section 1. Section **51-7-11** is amended to read:

51-7-11. Authorized deposits or investments of public funds.

(1) (a) Except as provided in Subsections (1)(b) and (1)(c), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

(b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.

(c) A public treasurer may make a deposit in accordance with Section **53B-7-601** in a foreign depository institution as defined in Section **7-1-103**.

(2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.

(3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section **51-7-17**:

(a) negotiable or nonnegotiable deposits of qualified depositories;

(b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools;

(v) Federal Agriculture Mortgage Corporation pools; or

(vi) other investments authorized by this section;

(c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:

- 59 (i) Government National Mortgage Association mortgage pools;
60 (ii) Federal Home Loan Mortgage Corporation mortgage pools;
61 (iii) Federal National Mortgage Corporation mortgage pools;
62 (iv) Small Business Administration loan pools; or
63 (v) other investments authorized by this section;
- 64 (d) commercial paper that is classified as "first tier" by two nationally recognized
65 statistical rating organizations, which has a remaining term to maturity of:
66 (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or
67 (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);
68 (e) bankers' acceptances that:
69 (i) are eligible for discount at a Federal Reserve bank; and
70 (ii) have a remaining term to maturity of 270 days or fewer;
71 (f) fixed rate negotiable deposits issued by a permitted depository that have a
72 remaining term to maturity of 365 days or fewer;
73 (g) obligations of the United States Treasury, including United States Treasury bills,
74 United States Treasury notes, and United States Treasury bonds that, unless the funds invested
75 are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining
76 term to final maturity of:
77 (i) five years or less; [~~or~~]
78 (ii) if the funds are invested by an institution of higher education as defined in Section
79 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or
80 (iii) if the funds are invested by a public agency insurance mutual, as defined in
81 Subsection 31A-1-103(7)(a), 20 years or less;
82 (h) obligations other than mortgage pools and other mortgage derivative products that:
83 (i) are issued by, or fully guaranteed as to principal and interest by, the following
84 agencies or instrumentalities of the United States in which a market is made by a primary
85 reporting government securities dealer, unless the agency or instrumentality has become private
86 and is no longer considered to be a government entity:
87 (A) Federal Farm Credit banks;
88 (B) Federal Home Loan banks;
89 (C) Federal National Mortgage Association;

(D) Federal Home Loan Mortgage Corporation;

(E) Federal Agriculture Mortgage Corporation; and

(F) Tennessee Valley Authority; and

(ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(A) five years or less; [~~or~~]

(B) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(C) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(i) fixed rate corporate obligations that:

(i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(iii) are publicly traded; and

(iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value or better, within 365 days;

(j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city or town, school district, or other political subdivision of the state, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less; [~~or~~]

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to

the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less; ~~[or]~~

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(l) shares or certificates in a money market mutual fund;

(m) variable rate negotiable deposits that:

(i) are issued by a qualified depository or a permitted depository;

(ii) are repriced at least semiannually; and

(iii) have a remaining term to final maturity not to exceed three years;

(n) variable rate securities that:

(i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(C) are publicly traded;

(D) are repriced at least semiannually; and

(E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;

(ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions; and

(o) reciprocal deposits made in accordance with Subsection 51-7-17(4).

(4) The following public funds are exempt from the requirements of Subsection (3):

(a) the Employers' Reinsurance Fund created in Section 34A-2-702;

(b) the Uninsured Employers' Fund created in Section 34A-2-704;

(c) a local government other post-employment benefits trust fund under Section 51-7-12.2; and

(d) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be calculated on the basis of the actual number of days divided by 360 days.

(6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured nonqualified depository only if a qualified depository is not reasonably convenient to the entity's geographic location.

(7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all purchases and sales of securities are settled within:

- (a) 15 days of the trade date for outstanding issues; and
- (b) 30 days for new issues.

Section 2. Section **51-7-15** is amended to read:

51-7-15. Bonds of state treasurer and other public treasurers -- Reports to council.

(1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of each school district, and other public treasurers that the council designates by rule shall be bonded or may procure crime or theft insurance as allowed in Section ~~51-7-15~~ [\[31A-1-103\] 17-16-11](#) ~~51-7-15~~ in an amount of not less than that established by the council.

(b) The council shall base the minimum bond amount or crime or theft insurance as allowed in Section ~~51-7-15~~ [\[31A-1-103\] 17-16-11](#) ~~51-7-15~~ on the amount of public funds normally in the treasurer's possession or control.

(2) (a) When a public treasurer deposits or invests public funds as authorized by this chapter, the public treasurer and the public treasurer's bondsmen or insurers are not liable for any loss of public funds invested or deposited unless the loss is caused by the malfeasance of the public treasurer or a member of the public treasurer's staff.

(b) A public treasurer and the public treasurer's bondsmen or insurers are liable for a loss for any reason from deposits or investments not made in conformity with this chapter and the rules of the council.

(3) (a) A public treasurer shall file a written report with the council on or before January 31 and July 31 of each year.

(b) The report shall contain:

- (i) the information about the deposits and investments of that public treasurer during

the preceding six months ending December 31 and June 30, respectively, that the council requires by rule; and

(ii) information detailing the nature and extent of interest rate contracts permitted by Subsection 51-7-17(3).

(c) A public treasurer shall make copies of the report available to the public at the public treasurer's office during normal business hours.

Section 3. Section 51-7-16 is amended to read:

51-7-16. State Money Management Council -- Members -- Terms -- Vacancies -- Chair and vice chair-- Executive secretary -- Meetings -- Quorum -- Members' disclosure of interests -- Per diem and expenses.

(1) (a) There is created a State Money Management Council composed of five members appointed by the governor after consultation with the state treasurer and with the consent of the Senate.

(b) The members of the council shall be qualified by training and experience in the field of investment or finance as follows:

(i) at least one member, but not more than two members, shall be experienced in the banking business;

(ii) at least one member, but not more than two members, shall be an elected treasurer;

(iii) at least one member, but not more than two members, shall be an appointed public treasurer; and

(iv) two members, but not more than two members, shall be experienced in the field of investment.

~~[(c) No more than three members of the council may be from the same political party.]~~

(c) The members of the council shall be appointed without regard to the members' political party affiliation.

(2) (a) Except as required by Subsection (2)(b), the council members shall be appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) All members shall serve until their successors are appointed and qualified.

(3) (a) The council members shall elect a chair and vice chair.

(b) The state treasurer shall serve as executive secretary of the council without vote.

(4) (a) The council shall meet at least once per quarter at a regular date to be fixed by the council and at other times at the call of the chair, the state treasurer, or any two members of the council.

(b) Three members are a quorum for the transaction of business.

(c) Actions of the council require a vote of a majority of those present.

(d) All meetings of the council and records of its proceedings are open for inspection by the public at the state treasurer's office during regular business hours except for:

(i) reports of the commissioner of financial institutions concerning the identity, liquidity, or financial condition of qualified depositories and the amount of public funds each is eligible to hold; and

(ii) reports of the director concerning the identity, liquidity, or financial condition of certified dealers.

(5) (a) Each member of the council shall file a sworn or written statement with the lieutenant governor that discloses any position or employment or ownership interest that he has in any financial institution or investment organization.

(b) Each member shall file the statement required by this Subsection (5) when he becomes a member of the council and when substantial changes in his position, employment, or ownership interests occur.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 4. Section 51-7-23 is amended to read:

51-7-23. Transition of investments previously authorized.

245 (1) Any investment held by a public treasurer that as of June 30, 2015, is not in
246 compliance with the provisions of this chapter is subject to review by the council.

247 (2) (a) No later than July 31, 2015, a public treasurer who holds an investment
248 described in Subsection (1) shall provide the council a written report that outlines a reasonable
249 plan to bring the investment into compliance.

250 (b) A plan described in Subsection (2)(a) is subject to annual review by the council.

251 (c) The council may authorize, with substantial justification, an exception to the five
252 year maturity requirements of Section [51-7-11](#).

Legislative Review Note
Office of Legislative Research and General Counsel