

MONEY MANAGEMENT ACT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

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:



28 AMENDS:

29 51-7-11, as last amended by Laws of Utah 2015, Chapter 171

30 51-7-15, as last amended by Laws of Utah 2013, Chapters 278 and 388

31 51-7-16, as last amended by Laws of Utah 2010, Chapter 286

32 51-7-23, as last amended by Laws of Utah 2015, Chapter 171

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

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

36 **51-7-11. Authorized deposits or investments of public funds.**

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

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

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

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

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

48 (a) negotiable or nonnegotiable deposits of qualified depositories;

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

51 (i) Government National Mortgage Association mortgage pools;

52 (ii) Federal Home Loan Mortgage Corporation mortgage pools;

53 (iii) Federal National Mortgage Corporation mortgage pools;

54 (iv) Small Business Administration loan pools;

55 (v) Federal Agriculture Mortgage Corporation pools; or

56 (vi) other investments authorized by this section;

57 (c) qualifying repurchase agreements and reverse repurchase agreements with certified
58 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;

90 (D) Federal Home Loan Mortgage Corporation;
91 (E) Federal Agriculture Mortgage Corporation; and
92 (F) Tennessee Valley Authority; and
93 (ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust
94 escrow account, have a remaining term to final maturity of:
95 (A) five years or less; [~~or~~]
96 (B) if the funds are invested by an institution of higher education as defined in Section
97 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or
98 (C) if the funds are invested by a public agency insurance mutual, as defined in
99 Subsection 31A-1-103(7)(a), 20 years or less;
100 (i) fixed rate corporate obligations that:
101 (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally
102 recognized statistical rating organizations;
103 (ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;
104 (iii) are publicly traded; and
105 (iv) have a remaining term to final maturity of 15 months or less or are subject to a
106 hard put at par value or better, within 365 days;
107 (j) tax anticipation notes and general obligation bonds of the state or a county,
108 incorporated city or town, school district, or other political subdivision of the state, including
109 bonds offered on a when-issued basis without regard to the limitations described in Subsection
110 (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust
111 escrow account, have a remaining term to final maturity of:
112 (i) five years or less; [~~or~~]
113 (ii) if the funds are invested by an institution of higher education as defined in Section
114 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or
115 (iii) if the funds are invested by a public agency insurance mutual, as defined in
116 Subsection 31A-1-103(7)(a), 20 years or less;
117 (k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or
118 town, school district, or other political subdivision of the state that are payable from
119 assessments or from revenues or earnings specifically pledged for payment of the principal and
120 interest on these obligations, including bonds offered on a when-issued basis without regard to

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

124 (i) five years or less; [~~or~~]
 125 (ii) if the funds are invested by an institution of higher education as defined in Section
 126 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less; or
 127 (iii) if the funds are invested by a public agency insurance mutual, as defined in
 128 Subsection [31A-1-103\(7\)\(a\)](#), 20 years or less;

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

130 (m) variable rate negotiable deposits that:

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

132 (ii) are repriced at least semiannually; and

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

134 (n) variable rate securities that:

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

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

138 (C) are publicly traded;

139 (D) are repriced at least semiannually; and

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

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

144 (o) reciprocal deposits made in accordance with Subsection [51-7-17\(4\)](#).

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

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

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

148 (c) a local government other post-employment benefits trust fund under Section
 149 [51-7-12.2](#); and

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

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

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

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

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

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

163 **51-7-15. Bonds of state treasurer and other public treasurers -- Reports to**
 164 **council.**

165 (1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of
 166 each school district, and other public treasurers that the council designates by rule shall be
 167 bonded or may procure crime or theft insurance as allowed in Section ~~Ĥ~~→ [\[31A-1-103\] 17-16-11](#) ←~~Ĥ~~
 167a in an amount
 168 of not less than that established by the council.

169 (b) The council shall base the minimum bond amount or crime or theft insurance as
 170 allowed in Section ~~Ĥ~~→ [\[31A-1-103\] 17-16-11](#) ←~~Ĥ~~ on the amount of public funds normally
 170a in the treasurer's
 171 possession or control.

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

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

179 (3) (a) A public treasurer shall file a written report with the council on or before January
 180 31 and July 31 of each year.

181 (b) The report shall contain:

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

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

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

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

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

190 **51-7-16. State Money Management Council -- Members -- Terms -- Vacancies --**
191 **Chair and vice chair-- Executive secretary -- Meetings -- Quorum -- Members' disclosure**
192 **of interests -- Per diem and expenses.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

239 (a) Section 63A-3-106;

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

241 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
242 63A-3-107.

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

244 **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