

1 AN ACT relating to investments made by local governments.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 66.480 is amended to read as follows:

- 4 (1) The governing body of a city, county, urban-county, charter county, school district
5 (provided that its general procedure for action is approved by the Kentucky Board
6 of Education), or other local governmental unit or political subdivision, may invest
7 and reinvest money subject to its control and jurisdiction in:
- 8 (a) Obligations of the United States and of its agencies and instrumentalities,
9 including obligations subject to repurchase agreements, if delivery of these
10 obligations subject to repurchase agreements is taken either directly or through
11 an authorized custodian. These investments may be accomplished through
12 repurchase agreements reached with sources including but not limited to
13 national or state banks chartered in Kentucky;
- 14 (b) Obligations and contracts for future delivery or purchase of obligations backed
15 by the full faith and credit of the United States or a United States government
16 agency, including but not limited to:
- 17 1. United States Treasury;
 - 18 2. Export-Import Bank of the United States;
 - 19 3. Farmers Home Administration;
 - 20 4. Government National Mortgage Corporation; and
 - 21 5. Merchant Marine bonds;
- 22 (c) Obligations of any corporation of the United States government, including but
23 not limited to:
- 24 1. Federal Home Loan Mortgage Corporation;
 - 25 2. Federal Farm Credit Banks;
 - 26 3. Bank for Cooperatives;
 - 27 4. Federal Intermediate Credit Banks;

- 1 5. Federal Land Banks;
- 2 6. Federal Home Loan Banks;
- 3 7. Federal National Mortgage Association; and
- 4 8. Tennessee Valley Authority;
- 5 (d) Certificates of deposit issued by or other interest-bearing accounts of any bank
- 6 or savings and loan institution which are insured by the Federal Deposit
- 7 Insurance Corporation or similar entity or which are collateralized, to the
- 8 extent uninsured, by any obligations, including surety bonds, permitted by KRS
- 9 41.240(4);
- 10 (e) Uncollateralized certificates of deposit issued by any bank or savings and loan
- 11 institution rated in one (1) of the three (3) highest categories by a
- 12 competent~~[nationally recognized]~~ rating agency, as that term is defined in
- 13 subsection (11) of this section;
- 14 (f) Bankers' acceptances for banks rated in one (1) of the three (3) highest
- 15 categories by a competent~~[nationally recognized]~~ rating agency;
- 16 (g) Commercial paper rated in the highest category by a competent~~[nationally~~
- 17 ~~recognized]~~ rating agency;
- 18 (h) Bonds or certificates of indebtedness of this state and of its agencies and
- 19 instrumentalities;
- 20 (i) Securities issued by a state or local government, or any instrumentality of
- 21 agency thereof, in the United States, and rated in one (1) of the three (3)
- 22 highest categories by a competent~~[nationally recognized]~~ rating agency;~~[and]~~
- 23 (j) Shares of mutual funds, each of which shall have the following characteristics:
- 24 1. The mutual fund shall be an open-end diversified investment company
- 25 registered under the Federal Investment Company Act of 1940, as
- 26 amended;
- 27 2. The management company of the investment company shall have been in

- 1 operation for at least five (5) years; and
- 2 3. All of the securities in the mutual fund shall be eligible investments
- 3 pursuant to this section;

4 (k) If the funds being invested are managed by a professional investment

5 advisor, mutual funds, closed-end funds, and exchange-traded funds,

6 including funds investing in individual preferred stock or equities, except

7 that no greater than seven percent (7%) of the total portfolio shall be

8 composed of individual equities at the time of purchase; and

9 (l) If the funds being invested are managed by a professional investment

10 advisor, high-quality corporate bonds that are issued, assumed, or

11 guaranteed by a solvent institution created and existing under the laws of

12 the United States, and which:

- 13 1. Have a standard maturity of no more than five (5) years; and
- 14 2. Are rated in the two (2) highest rating categories by at least one (1)
- 15 competent rating agency.

16 (2) The investment authority provided by subsection (1) of this section shall be subject

17 to the following limitations:

18 (a) The amount of money invested at any time by a local government or political

19 subdivision in one (1) or more of the categories of investments authorized by

20 subsection (1)(e), (f), (g), ~~and (i)~~ (k), and (l) of this section shall not exceed

21 twenty percent (20%) of the total amount of money invested by the local

22 government; ~~and~~

23 (b) No local government or political subdivision shall purchase any investment

24 authorized by subsection (1) on a margin basis or through the use of any

25 similar leveraging technique; and

26 (c) A local government shall not invest more than five percent (5%) of the total

27 amount of money invested by the local government in any one (1) issuer,

1 unless the issuer is the United States government or an agency or
2 instrumentality of the United States government, or an entity which has its
3 obligations guaranteed by the United States government or an entity,
4 agency, or instrumentality of the United States government. Whether an
5 investment exceeds the five percent (5%) threshold shall be determined at
6 the time the investment is being made.

7 (3) The governing body of every local government or political subdivision that invests or
8 reinvests money subject to its control or jurisdiction according to the provisions of
9 subsection (1) of this section shall by January 1, 1995, adopt a written investment
10 policy that shall govern the investment of funds by the local government or political
11 subdivision. The written investment policy shall include but shall not be limited to
12 the following:

- 13 (a) A designation of the officer or officers of the local government or political
14 subdivision who are authorized to invest and oversee the investment of funds;
- 15 (b) A list of the permitted types of investments;
- 16 (c) Procedures designed to secure the local government's or political subdivision's
17 financial interest in the investments;
- 18 (d) Standards for written agreements pursuant to which investments are to be
19 made;
- 20 (e) Procedures for monitoring, control, deposit, and retention of investments and
21 collateral;
- 22 (f) Standards for the diversification of investments, including diversification with
23 respect to the types of investments and firms with whom the local government
24 or political subdivision transacts business;
- 25 (g) Standards for the qualification of investment agents which transact business
26 with the local government, such as criteria covering creditworthiness,
27 experience, capitalization, size, and any other factors that make a firm capable

1 and qualified to transact business with the local government or political
2 subdivision; and

3 (h) Requirements for periodic reporting to the governing body on the status of
4 invested funds.

5 (4) Sheriffs, county clerks, and jailers, who for the purposes of this section shall be
6 known as county officials, may invest and reinvest money subject to their control
7 and jurisdiction, including tax dollars subject to the provisions of KRS Chapter 134
8 and 160.510, as permitted by this section.

9 (5) The provisions of this section are not intended to impair the power of a county
10 official, city, county, urban-county, charter county, school district, or other local
11 governmental unit or political subdivision to hold funds in deposit accounts with
12 banking institutions as otherwise authorized by law.

13 (6) The governing body or county official may delegate the investment authority
14 provided by this section to the treasurer or other financial officer or officers charged
15 with custody of the funds of the local government, and the officer or officers shall
16 thereafter assume full responsibility for all investment transactions until the
17 delegation of authority terminates or is revoked.

18 (7) All county officials shall report the earnings of any investments at the time of their
19 annual reports and settlements with the fiscal courts for excess income of their
20 offices.

21 (8) The state local debt officer is authorized and directed to assist county officials and
22 local governments, except school districts, in investing funds that are temporarily in
23 excess of operating needs by:

24 (a) Explaining investment opportunities to county officials and local governments
25 through publication and other appropriate means; and

26 (b) Providing technical assistance in investment of idle funds to county officials
27 and local governments that request that assistance.

- 1 (9) (a) The state local debt officer may create an investment pool for local
2 governments, except school districts, and county officials; and counties and
3 county officials and cities may associate to create an investment pool. If
4 counties and county officials and cities create a pool, each group may select a
5 manager to administer their pool and invest the assets. Each county and each
6 county official and each city may invest in a pool created pursuant to this
7 subsection. Investments shall be limited to those investment instruments
8 permitted by this section. The funds of each local government and county
9 official shall be properly accounted for, and earnings and charges shall be
10 assigned to each participant in a uniform manner according to the amount
11 invested. Charges to any local government or county official shall not exceed
12 one percent (1%) annually on the principal amount invested, and charges on
13 investments of less than a year's duration shall be prorated. Any investment
14 pool created pursuant to this subsection shall be audited each year by an
15 independent certified public accountant, or by the Auditor of Public Accounts.
16 A copy of the audit report shall be provided to each local government or
17 county official participating in the pool. In the case of an audit by an
18 independent certified public accountant, a copy of the audit report shall be
19 provided to the Auditor of Public Accounts, and to the state local debt officer.
20 The Auditor of Public Accounts may review the report of the independent
21 certified public accountant. After preliminary review, should discrepancies be
22 found, the Auditor of Public Accounts may make his or her own investigative
23 report or audit to verify the findings of the independent certified public
24 accountant's report.
- 25 (b) If the state local debt officer creates an investment pool, he or she shall
26 establish an account in the Treasury for the pool. He or she shall also establish
27 a separate trust and agency account for the purpose of covering management

1 costs, and he or she shall deposit management charges in this account. The
2 state local debt officer may promulgate administrative regulations, pursuant to
3 KRS Chapter 13A, governing the operation of the investment pool, including
4 but not limited to provisions on minimum allowable investments and
5 investment periods, and method and timing of investments, withdrawals,
6 payment of earnings, and assignment of charges.

7 (c) Before investing in an investment pool created pursuant to this subsection, a
8 local government or county official shall allow any savings and loan association
9 or bank in the county, as described in subsection (1)(d) of this section, to bid
10 for the deposits, but the local government or county official shall not be
11 required to seek bids more often than once in each six (6) month period.

12 (10) (a) With the approval of the Kentucky Board of Education, local boards of
13 education, or any of them that desire to do so, may associate to create an
14 investment pool. Each local school board which associates itself with other
15 local school boards for the purpose of creating the investment pool may invest
16 its funds in the pool so created and so managed. Investments shall be limited to
17 those investment instruments permitted by this section. The funds of each local
18 school board shall be properly accounted for, and earnings and charges shall be
19 assigned to each participant in a uniform manner according to the amount
20 invested. Charges to any local school board shall not exceed one percent (1%)
21 annually on the principal amount invested, and charges on investments of less
22 than a year's duration shall be prorated. Any investment pool created pursuant
23 to this subsection shall be audited each year by an independent certified public
24 accountant, or by the Auditor of Public Accounts. A copy of the audit report
25 shall be provided to each local school board participating in the pool. In the
26 case of an audit by an independent certified public accountant, a copy of the
27 audit report shall be provided to the Auditor of Public Accounts, and to the

1 Kentucky Board of Education. The Auditor of Public Accounts may review
2 the report of the independent certified public accountant. After preliminary
3 review, should discrepancies be found, the Auditor of Public Accounts may
4 make his or her own investigative report or audit to verify the findings of the
5 independent certified public accountant's report.

- 6 (b) The Kentucky Board of Education may promulgate administrative regulations
7 governing the operation of the investment pool including but not limited to
8 provisions on minimum allowable investments and investment periods, and
9 methods and timing of investments, withdrawals, payment of earnings, and
10 assignment of charges.

11 (11) As used in this section, "competent rating agency" means a rating agency
12 certified or approved by a national entity that engages in such a process. The
13 certification or approval process shall include but not necessarily be limited to
14 the following elements the subject rating agency must possess:

- 15 (a) A requirement for the rating agency to register and provide an annual
16 updated filing;
17 (b) Record retention requirements;
18 (c) Financial reporting requirements;
19 (d) Policies for the prevention of misuse of material nonpublic information;
20 (e) Policies addressing management of conflicts of interest, including
21 prohibited conflicts;
22 (f) Prohibited acts practices;
23 (g) Disclosure requirements;
24 (h) Any policies, practices, and internal controls required by the national
25 entity; and
26 (i) Standards of training, experience, and competence for credit analysts.