

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 251

Representative Greenspan

Cosponsors: Representatives Hambley, Stein

A BILL

To amend section 135.14 of the Revised Code to
increase from five to ten years the maturity
period of other political subdivision's bonds
and obligations eligible for investment of a
subdivision's interim moneys.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 135.14 of the Revised Code be
amended to read as follows:

Sec. 135.14. (A) As used in this section:

(1) "Treasurer" does not include the treasurer of state,
and "governing board" does not include the state board of
deposit.

(2) "Other obligations" includes notes whether or not
issued in anticipation of the issuance of bonds.

(B) The treasurer or governing board may invest or deposit
any part or all of the interim moneys. The following
classifications of obligations shall be eligible for such
investment or deposit:

(1) United States treasury bills, notes, bonds, or any 18
other obligation or security issued by the United States 19
treasury or any other obligation guaranteed as to principal and 20
interest by the United States. 21

Nothing in the classification of eligible obligations set 22
forth in division (B)(1) of this section or in the 23
classifications of eligible obligations set forth in divisions 24
(B)(2) to (7) of this section shall be construed to authorize 25
any investment in stripped principal or interest obligations of 26
such eligible obligations. 27

(2) Bonds, notes, debentures, or any other obligations or 28
securities issued by any federal government agency or 29
instrumentality, including but not limited to, the federal 30
national mortgage association, federal home loan bank, federal 31
farm credit bank, federal home loan mortgage corporation, and 32
government national mortgage association. All federal agency 33
securities shall be direct issuances of federal government 34
agencies or instrumentalities. 35

(3) Interim deposits in the eligible institutions applying 36
for interim moneys as provided in section 135.08 of the Revised 37
Code. The award of interim deposits shall be made in accordance 38
with section 135.09 of the Revised Code and the treasurer or the 39
governing board shall determine the periods for which such 40
interim deposits are to be made and shall award such interim 41
deposits for such periods, provided that any eligible 42
institution receiving an interim deposit award may, upon 43
notification that the award has been made, decline to accept the 44
interim deposit in which event the award shall be made as though 45
the institution had not applied for such interim deposit. 46

(4) Bonds and other obligations of this state, or the 47

political subdivisions of this state, provided that, with 48
respect to bonds or other obligations of political subdivisions, 49
all of the following apply: 50

(a) The bonds or other obligations are payable from 51
general revenues of the political subdivision and backed by the 52
full faith and credit of the political subdivision. 53

(b) The bonds or other obligations are rated at the time 54
of purchase in the three highest classifications established by 55
at least one nationally recognized standard rating service and 56
purchased through a registered securities broker or dealer. 57

(c) The aggregate value of the bonds or other obligations 58
does not exceed twenty per cent of interim moneys available for 59
investment at the time of purchase. 60

(d) The treasurer or governing board is not the sole 61
purchaser of the bonds or other obligations at original 62
issuance. 63

(e) The bonds or other obligations mature within ten years 64
from the date of the settlement. 65

No investment shall be made under division (B)(4) of this 66
section unless the treasurer or governing board has completed 67
additional training for making the investments authorized by 68
division (B)(4) of this section. The type and amount of 69
additional training shall be approved by the treasurer of state 70
and may be conducted by or provided under the supervision of the 71
treasurer of state. 72

(5) No-load money market mutual funds consisting 73
exclusively of obligations described in division (B)(1) or (2) 74
of this section and repurchase agreements secured by such 75
obligations, provided that investments in securities described 76

in this division are made only through eligible institutions 77
mentioned in section 135.03 of the Revised Code; 78

(6) The Ohio subdivision's fund as provided in section 79
135.45 of the Revised Code; 80

(7) Up to forty per cent of interim moneys available for 81
investment in either of the following: 82

(a) Commercial paper notes issued by an entity that is 83
defined in division (D) of section 1705.01 of the Revised Code 84
and that has assets exceeding five hundred million dollars, to 85
which notes all of the following apply: 86

(i) The notes are rated at the time of purchase in the 87
highest classification established by at least two nationally 88
recognized standard rating services. 89

(ii) The aggregate value of the notes does not exceed ten 90
per cent of the aggregate value of the outstanding commercial 91
paper of the issuing corporation. 92

(iii) The notes mature not later than two hundred seventy 93
days after purchase. 94

(iv) The investment in commercial paper notes of a single 95
issuer shall not exceed in the aggregate five per cent of 96
interim moneys available for investment at the time of purchase. 97

(b) Bankers acceptances of banks that are insured by the 98
federal deposit insurance corporation and that mature not later 99
than one hundred eighty days after purchase. 100

No investment shall be made pursuant to division (B) (7) of 101
this section unless the treasurer or governing board has 102
completed additional training for making the investments 103
authorized by division (B) (7) of this section. The type and 104

amount of additional training shall be approved by the treasurer 105
of state and may be conducted by or provided under the 106
supervision of the treasurer of state. 107

(C) Nothing in the classifications of eligible obligations 108
set forth in divisions (B) (1) to (7) of this section shall be 109
construed to authorize any investment in a derivative, and no 110
treasurer or governing board shall invest in a derivative. For 111
purposes of this division, "derivative" means a financial 112
instrument or contract or obligation whose value or return is 113
based upon or linked to another asset or index, or both, 114
separate from the financial instrument, contract, or obligation 115
itself. Any security, obligation, trust account, or other 116
instrument that is created from an issue of the United States 117
treasury or is created from an obligation of a federal agency or 118
instrumentality or is created from both is considered a 119
derivative instrument. An eligible investment described in this 120
section with a variable interest rate payment, based upon a 121
single interest payment or single index comprised of other 122
eligible investments provided for in division (B) (1) or (2) of 123
this section, is not a derivative, provided that such variable 124
rate investment has a maximum maturity of two years. 125

(D) Except as provided in division (B) (4) or (E) of this 126
section, any investment made pursuant to this section must 127
mature within five years from the date of settlement, unless the 128
investment is matched to a specific obligation or debt of the 129
subdivision. 130

(E) The treasurer or governing board may also enter into a 131
written repurchase agreement with any eligible institution 132
mentioned in section 135.03 of the Revised Code or any eligible 133
dealer pursuant to division (M) of this section, under the terms 134

of which agreement the treasurer or governing board purchases, 135
and such institution or dealer agrees unconditionally to 136
repurchase any of the securities listed in divisions (D) (1) to 137
(5), except letters of credit described in division (D) (2), of 138
section 135.18 of the Revised Code. The market value of 139
securities subject to an overnight written repurchase agreement 140
must exceed the principal value of the overnight written 141
repurchase agreement by at least two per cent. A written 142
repurchase agreement shall not exceed thirty days and the market 143
value of securities subject to a written repurchase agreement 144
must exceed the principal value of the written repurchase 145
agreement by at least two per cent and be marked to market 146
daily. All securities purchased pursuant to this division shall 147
be delivered into the custody of the treasurer or governing 148
board or an agent designated by the treasurer or governing 149
board. A written repurchase agreement with an eligible 150
securities dealer shall be transacted on a delivery versus 151
payment basis. The agreement shall contain the requirement that 152
for each transaction pursuant to the agreement the participating 153
institution or dealer shall provide all of the following 154
information: 155

(1) The par value of the securities; 156

(2) The type, rate, and maturity date of the securities; 157

(3) A numerical identifier generally accepted in the 158
securities industry that designates the securities. 159

No treasurer or governing board shall enter into a written 160
repurchase agreement under the terms of which the treasurer or 161
governing board agrees to sell securities owned by the 162
subdivision to a purchaser and agrees with that purchaser to 163
unconditionally repurchase those securities. 164

(F) No treasurer or governing board shall make an 165
investment under this section, unless the treasurer or governing 166
board, at the time of making the investment, reasonably expects 167
that the investment can be held until its maturity. 168

(G) No treasurer or governing board shall pay interim 169
moneys into a fund established by another subdivision, 170
treasurer, governing board, or investing authority, if that fund 171
was established for the purpose of investing the public moneys 172
of other subdivisions. This division does not apply to the 173
payment of public moneys into either of the following: 174

(1) The Ohio subdivision's fund pursuant to division (B) 175
(6) of this section; 176

(2) A fund created solely for the purpose of acquiring, 177
constructing, owning, leasing, or operating municipal utilities 178
pursuant to the authority provided under section 715.02 of the 179
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 180

For purposes of division (G) of this section, 181
"subdivision" includes a county. 182

(H) The use of leverage, in which the treasurer or 183
governing board uses its current investment assets as collateral 184
for the purpose of purchasing other assets, is prohibited. The 185
issuance of taxable notes for the purpose of arbitrage is 186
prohibited. Contracting to sell securities that have not yet 187
been acquired by the treasurer or governing board, for the 188
purpose of purchasing such securities on the speculation that 189
bond prices will decline, is prohibited. 190

(I) Whenever, during a period of designation, the 191
treasurer classifies public moneys as interim moneys, the 192
treasurer shall notify the governing board of such action. The 193

notification shall be given within thirty days after such 194
classification and in the event the governing board does not 195
concur in such classification or in the investments or deposits 196
made under this section, the governing board may order the 197
treasurer to sell or liquidate any of such investments or 198
deposits, and any such order shall specifically describe the 199
investments or deposits and fix the date upon which they are to 200
be sold or liquidated. Investments or deposits so ordered to be 201
sold or liquidated shall be sold or liquidated for cash by the 202
treasurer on the date fixed in such order at the then current 203
market price. Neither the treasurer nor the members of the board 204
shall be held accountable for any loss occasioned by sales or 205
liquidations of investments or deposits at prices lower than 206
their cost. Any loss or expense incurred in making such sales or 207
liquidations is payable as other expenses of the treasurer's 208
office. 209

(J) If any investments or deposits purchased under the 210
authority of this section are issuable to a designated payee or 211
to the order of a designated payee, the name of the treasurer 212
and the title of the treasurer's office shall be so designated. 213
If any such securities are registrable either as to principal or 214
interest, or both, then such securities shall be registered in 215
the name of the treasurer as such. 216

(K) The treasurer is responsible for the safekeeping of 217
all documents evidencing a deposit or investment acquired by the 218
treasurer under this section. Any securities may be deposited 219
for safekeeping with a qualified trustee as provided in section 220
135.18 of the Revised Code, except the delivery of securities 221
acquired under any repurchase agreement under this section shall 222
be made to a qualified trustee, provided, however, that the 223
qualified trustee shall be required to report to the treasurer, 224

governing board, auditor of state, or an authorized outside 225
auditor at any time upon request as to the identity, market 226
value, and location of the document evidencing each security, 227
and that if the participating institution is a designated 228
depository of the subdivision for the current period of 229
designation, the securities that are the subject of the 230
repurchase agreement may be delivered to the treasurer or held 231
in trust by the participating institution on behalf of the 232
subdivision. Interest earned on any investments or deposits 233
authorized by this section shall be collected by the treasurer 234
and credited by the treasurer to the proper fund of the 235
subdivision. 236

Upon the expiration of the term of office of a treasurer 237
or in the event of a vacancy in the office of treasurer by 238
reason of death, resignation, removal from office, or otherwise, 239
the treasurer or the treasurer's legal representative shall 240
transfer and deliver to the treasurer's successor all documents 241
evidencing a deposit or investment held by the treasurer. For 242
the investments and deposits so transferred and delivered, such 243
treasurer shall be credited with and the treasurer's successor 244
shall be charged with the amount of money held in such 245
investments and deposits. 246

(L) Whenever investments or deposits acquired under this 247
section mature and become due and payable, the treasurer shall 248
present them for payment according to their tenor, and shall 249
collect the moneys payable thereon. The moneys so collected 250
shall be treated as public moneys subject to sections 135.01 to 251
135.21 of the Revised Code. 252

(M) (1) All investments, except for investments in 253
securities described in divisions (B) (5) and (6) of this section 254

and for investments by a municipal corporation in the issues of 255
such municipal corporation, shall be made only through a member 256
of the financial industry regulatory authority (FINRA), through 257
a bank, savings bank, or savings and loan association regulated 258
by the superintendent of financial institutions, or through an 259
institution regulated by the comptroller of the currency, 260
federal deposit insurance corporation, or board of governors of 261
the federal reserve system. 262

(2) Payment for investments shall be made only upon the 263
delivery of securities representing such investments to the 264
treasurer, governing board, or qualified trustee. If the 265
securities transferred are not represented by a certificate, 266
payment shall be made only upon receipt of confirmation of 267
transfer from the custodian by the treasurer, governing board, 268
or qualified trustee. 269

(N) In making investments authorized by this section, a 270
treasurer or governing board may retain the services of an 271
investment advisor, provided the advisor is licensed by the 272
division of securities under section 1707.141 of the Revised 273
Code or is registered with the securities and exchange 274
commission, and possesses experience in public funds investment 275
management, specifically in the area of state and local 276
government investment portfolios, or the advisor is an eligible 277
institution mentioned in section 135.03 of the Revised Code. 278

(O) (1) Except as otherwise provided in divisions (O) (2) 279
and (3) of this section, no treasurer or governing board shall 280
make an investment or deposit under this section, unless there 281
is on file with the auditor of state a written investment policy 282
approved by the treasurer or governing board. The policy shall 283
require that all entities conducting investment business with 284

the treasurer or governing board shall sign the investment 285
policy of that subdivision. All brokers, dealers, and financial 286
institutions, described in division (M) (1) of this section, 287
initiating transactions with the treasurer or governing board by 288
giving advice or making investment recommendations shall sign 289
the treasurer's or governing board's investment policy thereby 290
acknowledging their agreement to abide by the policy's contents. 291
All brokers, dealers, and financial institutions, described in 292
division (M) (1) of this section, executing transactions 293
initiated by the treasurer or governing board, having read the 294
policy's contents, shall sign the investment policy thereby 295
acknowledging their comprehension and receipt. 296

(2) If a written investment policy described in division 297
(O) (1) of this section is not filed on behalf of the subdivision 298
with the auditor of state, the treasurer or governing board of 299
that subdivision shall invest the subdivision's interim moneys 300
only in interim deposits pursuant to division (B) (3) of this 301
section or interim deposits pursuant to section 135.145 of the 302
Revised Code and approved by the treasurer of state, no-load 303
money market mutual funds pursuant to division (B) (5) of this 304
section, or the Ohio subdivision's fund pursuant to division (B) 305
(6) of this section. 306

(3) Divisions (O) (1) and (2) of this section do not apply 307
to a treasurer or governing board of a subdivision whose average 308
annual portfolio of investments held pursuant to this section is 309
one hundred thousand dollars or less, provided that the 310
treasurer or governing board certifies, on a form prescribed by 311
the auditor of state, that the treasurer or governing board will 312
comply and is in compliance with the provisions of sections 313
135.01 to 135.21 of the Revised Code. 314

(P) A treasurer or governing board may enter into a 315
written investment or deposit agreement that includes a 316
provision under which the parties agree to submit to nonbinding 317
arbitration to settle any controversy that may arise out of the 318
agreement, including any controversy pertaining to losses of 319
public moneys resulting from investment or deposit. The 320
arbitration provision shall be set forth entirely in the 321
agreement, and the agreement shall include a conspicuous notice 322
to the parties that any party to the arbitration may apply to 323
the court of common pleas of the county in which the arbitration 324
was held for an order to vacate, modify, or correct the award. 325
Any such party may also apply to the court for an order to 326
change venue to a court of common pleas located more than one 327
hundred miles from the county in which the treasurer or 328
governing board is located. 329

For purposes of this division, "investment or deposit 330
agreement" means any agreement between a treasurer or governing 331
board and a person, under which agreement the person agrees to 332
invest, deposit, or otherwise manage a subdivision's interim 333
moneys on behalf of the treasurer or governing board, or agrees 334
to provide investment advice to the treasurer or governing 335
board. 336

(Q) An investment made by the treasurer or governing board 337
pursuant to this section prior to September 27, 1996, that was a 338
legal investment under the law as it existed before September 339
27, 1996, may be held until maturity. 340

Section 2. That existing section 135.14 of the Revised 341
Code is hereby repealed. 342