



Sen. Laura Ellman

**Filed: 4/5/2024**

10300SB0536sam001

LRB103 03007 HLH 71901 a

1 AMENDMENT TO SENATE BILL 536

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 536 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Funds Investment Act is amended by  
5 changing Section 2 as follows:

6 (30 ILCS 235/2) (from Ch. 85, par. 902)

7 Sec. 2. Authorized investments.

8 (a) Any public agency may invest any public funds as  
9 follows:

10 (1) in bonds, notes, certificates of indebtedness,  
11 treasury bills or other securities now or hereafter  
12 issued, which are guaranteed by the full faith and credit  
13 of the United States of America as to principal and  
14 interest;

15 (2) in bonds, notes, debentures, or other similar  
16 obligations of the United States of America, its agencies,

1 and its instrumentalities;

2 (3) in interest-bearing savings accounts,  
3 interest-bearing certificates of deposit or  
4 interest-bearing time deposits or any other investments  
5 constituting direct obligations of any bank as defined by  
6 the Illinois Banking Act;

7 (4) in short-term obligations of corporations  
8 organized in the United States with assets exceeding  
9 \$500,000,000 if (i) such obligations are rated at the time  
10 of purchase at one of the 3 highest classifications  
11 established by at least 2 standard rating services and  
12 which mature not later than 270 days from the date of  
13 purchase, (ii) such purchases do not exceed 10% of the  
14 corporation's outstanding obligations, and (iii) no more  
15 than one-third of the public agency's funds may be  
16 invested in short-term obligations of corporations under  
17 this paragraph (4);

18 (4.5) in obligations of corporations organized in the  
19 United States with assets exceeding \$500,000,000 if (i)  
20 such obligations are rated at the time of purchase at one  
21 of the 3 highest classifications established by at least 2  
22 standard rating services and which mature more than 270  
23 days but less than 3 years from the date of purchase, (ii)  
24 such purchases do not exceed 10% of the corporation's  
25 outstanding obligations, and (iii) no more than one-third  
26 of the public agency's funds may be invested in

1 obligations of corporations under this paragraph (4.5); or

2 (5) in money market mutual funds registered under the  
3 Investment Company Act of 1940, provided that the  
4 portfolio of any such money market mutual fund is limited  
5 to obligations described in paragraph (1) or (2) of this  
6 subsection and to agreements to repurchase such  
7 obligations.

8 (a-1) In addition to any other investments authorized  
9 under this Act, a municipality, park district, forest preserve  
10 district, conservation district, county, or other governmental  
11 unit may invest its public funds in interest bearing bonds of  
12 any county, township, city, village, incorporated town,  
13 municipal corporation, or school district, of the State of  
14 Illinois, of any other state, or of any political subdivision  
15 or agency of the State of Illinois or of any other state,  
16 whether the interest earned thereon is taxable or tax-exempt  
17 under federal law. The bonds shall be registered in the name of  
18 the municipality, park district, forest preserve district,  
19 conservation district, county, or other governmental unit, or  
20 held under a custodial agreement at a bank. The bonds shall be  
21 rated at the time of purchase within the 4 highest general  
22 classifications established by a rating service of nationally  
23 recognized expertise in rating bonds of states and their  
24 political subdivisions.

25 (b) Investments may be made only in banks which are  
26 insured by the Federal Deposit Insurance Corporation. Any

1 public agency may invest any public funds in short term  
2 discount obligations of the Federal National Mortgage  
3 Association or in shares or other forms of securities legally  
4 issuable by savings banks or savings and loan associations  
5 incorporated under the laws of this State or any other state or  
6 under the laws of the United States. Investments may be made  
7 only in those savings banks or savings and loan associations  
8 the shares, or investment certificates of which are insured by  
9 the Federal Deposit Insurance Corporation. Any such securities  
10 may be purchased at the offering or market price thereof at the  
11 time of such purchase. All such securities so purchased shall  
12 mature or be redeemable on a date or dates prior to the time  
13 when, in the judgment of such governing authority, the public  
14 funds so invested will be required for expenditure by such  
15 public agency or its governing authority. The expressed  
16 judgment of any such governing authority as to the time when  
17 any public funds will be required for expenditure or be  
18 redeemable is final and conclusive. Any public agency may  
19 invest any public funds in dividend-bearing share accounts,  
20 share certificate accounts or class of share accounts of a  
21 credit union chartered under the laws of this State or the laws  
22 of the United States; provided, however, the principal office  
23 of any such credit union must be located within the State of  
24 Illinois. Investments may be made only in those credit unions  
25 the accounts of which are insured by applicable law.

26 (c) For purposes of this Section, the term "agencies of

1 the United States of America" includes: (i) the federal land  
2 banks, federal intermediate credit banks, banks for  
3 cooperative, federal farm credit banks, or any other entity  
4 authorized to issue debt obligations under the Farm Credit Act  
5 of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto;  
6 (ii) the federal home loan banks and the federal home loan  
7 mortgage corporation; and (iii) any other agency created by  
8 Act of Congress.

9 (d) Except for pecuniary interests permitted under  
10 subsection (f) of Section 3-14-4 of the Illinois Municipal  
11 Code or under Section 3.2 of the Public Officer Prohibited  
12 Practices Act, no person acting as treasurer or financial  
13 officer or who is employed in any similar capacity by or for a  
14 public agency may do any of the following:

15 (1) have any interest, directly or indirectly, in any  
16 investments in which the agency is authorized to invest.

17 (2) have any interest, directly or indirectly, in the  
18 sellers, sponsors, or managers of those investments.

19 (3) receive, in any manner, compensation of any kind  
20 from any investments in which the agency is authorized to  
21 invest.

22 (e) Any public agency may also invest any public funds in a  
23 Public Treasurers' Investment Pool created under Section 17 of  
24 the State Treasurer Act. Any public agency may also invest any  
25 public funds in a fund managed, operated, and administered by  
26 a bank, subsidiary of a bank, or subsidiary of a bank holding

1 company or use the services of such an entity to hold and  
2 invest or advise regarding the investment of any public funds.

3 (f) To the extent a public agency has custody of funds not  
4 owned by it or another public agency and does not otherwise  
5 have authority to invest such funds, the public agency may  
6 invest such funds as if they were its own. Such funds must be  
7 released to the appropriate person at the earliest reasonable  
8 time, but in no case exceeding 31 days, after the private  
9 person becomes entitled to the receipt of them. All earnings  
10 accruing on any investments or deposits made pursuant to the  
11 provisions of this Act shall be credited to the public agency  
12 by or for which such investments or deposits were made, except  
13 as provided otherwise in Section 4.1 of the State Finance Act  
14 or the Local Governmental Tax Collection Act, and except where  
15 by specific statutory provisions such earnings are directed to  
16 be credited to and paid to a particular fund.

17 (g) A public agency may purchase or invest in repurchase  
18 agreements of government securities having the meaning set out  
19 in the Government Securities Act of 1986, as now or hereafter  
20 amended or succeeded, subject to the provisions of said Act  
21 and the regulations issued thereunder. The government  
22 securities, unless registered or inscribed in the name of the  
23 public agency, shall be purchased through banks or trust  
24 companies authorized to do business in the State of Illinois.

25 (h) Except for repurchase agreements of government  
26 securities which are subject to the Government Securities Act

1 of 1986, as now or hereafter amended or succeeded, no public  
2 agency may purchase or invest in instruments which constitute  
3 repurchase agreements, and no financial institution may enter  
4 into such an agreement with or on behalf of any public agency  
5 unless the instrument and the transaction meet the following  
6 requirements:

7 (1) The securities, unless registered or inscribed in  
8 the name of the public agency, are purchased through banks  
9 or trust companies authorized to do business in the State  
10 of Illinois.

11 (2) An authorized public officer after ascertaining  
12 which firm will give the most favorable rate of interest,  
13 directs the custodial bank to "purchase" specified  
14 securities from a designated institution. The "custodial  
15 bank" is the bank or trust company, or agency of  
16 government, which acts for the public agency in connection  
17 with repurchase agreements involving the investment of  
18 funds by the public agency. The State Treasurer may act as  
19 custodial bank for public agencies executing repurchase  
20 agreements. To the extent the Treasurer acts in this  
21 capacity, he is hereby authorized to pass through to such  
22 public agencies any charges assessed by the Federal  
23 Reserve Bank.

24 (3) A custodial bank must be a member bank of the  
25 Federal Reserve System or maintain accounts with member  
26 banks. All transfers of book-entry securities must be

1 accomplished on a Reserve Bank's computer records through  
2 a member bank of the Federal Reserve System. These  
3 securities must be credited to the public agency on the  
4 records of the custodial bank and the transaction must be  
5 confirmed in writing to the public agency by the custodial  
6 bank.

7 (4) Trading partners shall be limited to banks or  
8 trust companies authorized to do business in the State of  
9 Illinois or to registered primary reporting dealers.

10 (5) The security interest must be perfected.

11 (6) The public agency enters into a written master  
12 repurchase agreement which outlines the basic  
13 responsibilities and liabilities of both buyer and seller.

14 (7) Agreements shall be for periods of 330 days or  
15 less.

16 (8) The authorized public officer of the public agency  
17 informs the custodial bank in writing of the maturity  
18 details of the repurchase agreement.

19 (9) The custodial bank must take delivery of and  
20 maintain the securities in its custody for the account of  
21 the public agency and confirm the transaction in writing  
22 to the public agency. The Custodial Undertaking shall  
23 provide that the custodian takes possession of the  
24 securities exclusively for the public agency; that the  
25 securities are free of any claims against the trading  
26 partner; and any claims by the custodian are subordinate



1 to the public agency's claims to rights to those  
2 securities.

3 (10) The obligations purchased by a public agency may  
4 only be sold or presented for redemption or payment by the  
5 fiscal agent bank or trust company holding the obligations  
6 upon the written instruction of the public agency or  
7 officer authorized to make such investments.

8 (11) The custodial bank shall be liable to the public  
9 agency for any monetary loss suffered by the public agency  
10 due to the failure of the custodial bank to take and  
11 maintain possession of such securities.

12 (i) Notwithstanding the foregoing restrictions on  
13 investment in instruments constituting repurchase agreements  
14 the Illinois Housing Development Authority may invest in, and  
15 any financial institution with capital of at least  
16 \$250,000,000 may act as custodian for, instruments that  
17 constitute repurchase agreements, provided that the Illinois  
18 Housing Development Authority, in making each such investment,  
19 complies with the safety and soundness guidelines for engaging  
20 in repurchase transactions applicable to federally insured  
21 banks, savings banks, savings and loan associations or other  
22 depository institutions as set forth in the Federal Financial  
23 Institutions Examination Council Policy Statement Regarding  
24 Repurchase Agreements and any regulations issued, or which may  
25 be issued by the supervisory federal authority pertaining  
26 thereto and any amendments thereto; provided further that the

1 securities shall be either (i) direct general obligations of,  
2 or obligations the payment of the principal of and/or interest  
3 on which are unconditionally guaranteed by, the United States  
4 of America or (ii) any obligations of any agency, corporation  
5 or subsidiary thereof controlled or supervised by and acting  
6 as an instrumentality of the United States Government pursuant  
7 to authority granted by the Congress of the United States and  
8 provided further that the security interest must be perfected  
9 by either the Illinois Housing Development Authority, its  
10 custodian or its agent receiving possession of the securities  
11 either physically or transferred through a nationally  
12 recognized book entry system.

13 (j) In addition to all other investments authorized under  
14 this Section, a community college district may invest public  
15 funds in any mutual funds that invest primarily in corporate  
16 investment grade or global government short term bonds.  
17 Purchases of mutual funds that invest primarily in global  
18 government short term bonds shall be limited to funds with  
19 assets of at least \$100 million and that are rated at the time  
20 of purchase as one of the 10 highest classifications  
21 established by a recognized rating service. The investments  
22 shall be subject to approval by the local community college  
23 board of trustees. Each community college board of trustees  
24 shall develop a policy regarding the percentage of the  
25 college's investment portfolio that can be invested in such  
26 funds.

1       (k) In addition to all other investments authorized under  
2 this Section, a public agency may adopt an ordinance or  
3 resolution to allow for investment of public funds in other  
4 instruments not specifically listed in this Section provided  
5 that those investments comply with (i) any other law that  
6 authorizes public agencies to invest funds and (ii) the  
7 investment policy adopted by the public agency under Section  
8 2.5 of this Act.

9       Nothing in this Section shall be construed to authorize an  
10 intergovernmental risk management entity to accept the deposit  
11 of public funds except for risk management purposes.

12 (Source: P.A. 102-285, eff. 8-6-21.)".