

SECOND REGULAR SESSION

# SENATE BILL NO. 1101

91ST GENERAL ASSEMBLY

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INTRODUCED BY SENATORS KENNEY, HOUSE AND WIGGINS.

Read 1<sup>st</sup> time February 4, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4406S.011

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## AN ACT

To repeal sections 30.260 and 30.270, RSMo, and to enact in lieu thereof four new sections relating to investment policies.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 30.260 and 30.270, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 30.260, 30.270, 30.951 and 30.952, to read as follows:

30.260. 1. The state treasurer shall prepare, maintain, and adhere to a written investment policy which shall include an asset allocation plan which limits the total amount of state moneys which may be invested in any particular investment authorized by section 15, article IV of the Missouri Constitution. The state treasurer shall present a copy of such policy to the governor, commissioner of administration, state auditor, and general assembly at the commencement of each regular session of the general assembly or at any time the written investment policy is amended.

2. The state treasurer shall determine by the exercise of the treasurer's best judgment the amount of state moneys that are not needed for current operating expenses of the state government, and shall keep on demand deposit in banking institutions in this state selected by the treasurer and approved by the governor and state auditor the amount of state moneys which the treasurer has so determined are needed for current operating expenses of the state government and disburse the same as authorized by law.

3. Within the parameters of the state treasurer's written investment policy, the state treasurer shall place the state moneys which the treasurer has determined are not needed for

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

current operations of the state government on time deposit drawing interest in banking institutions in this state selected by the treasurer and approved by the governor and the state auditor, or place them outright or, if applicable, by repurchase agreement in obligations described in section 15, article IV, Constitution of Missouri, as the treasurer in the exercise of the treasurer's best judgment determines to be in the best overall interest of the people of the state of Missouri, giving due consideration to:

- (1) The preservation of such state moneys;
- (2) The liquidity needs of the state;
- (3) The comparative yield to be derived therefrom;
- (4) The effect upon the economy and welfare of the people of Missouri of the removal or

withholding from banking institutions in the state of all or some such state moneys and investing same in obligations authorized in section 15, article IV of the Missouri Constitution; and

(5) All other factors which to the treasurer as a prudent state treasurer seem to be relevant to the general public welfare in the light of the circumstances at the time prevailing. The state treasurer may also place state moneys which are determined not needed for current operations of the state government in linked deposits as provided in sections 30.750 to 30.767.

4. Except for state moneys deposited in linked deposits as provided in sections 30.750 to 30.767, the rate of interest payable by all banking institutions on time deposits of state moneys shall be **at least** the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent; except that the rate shall never exceed the maximum rate of interest which by federal law or regulation a bank which is a member of the Federal Reserve System may from time to time pay on a time deposit of the same size and maturity.

5. Within the parameters of the state treasurer's written investment policy, the state treasurer may subscribe for or purchase outright, or [by] **through** repurchase agreement, **local government investment pool or money market mutual fund as defined and regulated in Rule 2a-7 of the Securities and Exchange Commission, make** investments of the character described in subsection 3 of this section which the treasurer, in the exercise of the treasurer's best judgment, believes to be the best for investment of state moneys at the time and in payment therefor may withdraw moneys from any bank account, demand or time, maintained by the treasurer without having any supporting warrant of the commissioner of administration. The state treasurer may bid on subscriptions for such obligations in accordance with the treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner that securities pledged to secure the repayment

of state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The state treasurer may hold any such obligation so acquired by the treasurer until its maturity or prior thereto may sell the same outright or by reverse repurchase agreement provided the state's security interest in the underlying security is perfected or temporarily exchange such obligation for **cash or** other authorized securities of at least equal market value with no maturity more than one year beyond the maturity of any of the traded obligations, for a negotiated fee as the treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the best interest of the people of the state of Missouri in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the treasurer in connection with the subscription, purchase, sale, collection, safekeeping, or delivery of all such obligations at any time acquired by the treasurer.

6. As used in this chapter, except as more particularly specified in section 30.270, obligations of the United States shall include securities of the United States Treasury, and United States agencies or instrumentalities as described in section 15, article IV, Constitution of Missouri. The word "temporarily" as used in this section shall mean no more than six months.

30.270. 1. For the security of the moneys deposited by the state treasurer pursuant to the provisions of this chapter, the state treasurer shall, from time to time, submit a list of acceptable securities to be approved by the governor and state auditor if satisfactory to them, and the state treasurer shall require of the selected and approved banks or financial institutions as security for the safekeeping and payment of deposits, securities from the list provided for in this section, which list may include only securities of the following kind and character:

- (1) Bonds or other obligations of the United States;
- (2) Bonds or other obligations of the state of Missouri including revenue bonds issued by state agencies or by state authorities created by legislative enactment;
- (3) Bonds of any city in this state having a population of not less than two thousand;
- (4) Bonds of any county in this state;
- (5) Approved registered bonds of any school district situated in this state;
- (6) Approved registered bonds of any special road district in this state;
- (7) State bonds of any state;
- (8) Notes, bonds, debentures or other similar obligations issued by the federal land banks, federal intermediate credit banks, or banks for cooperatives or any other obligations issued pursuant to the provisions of an act of the Congress of the United States known as the Farm Credit Act of 1971, and acts amendatory thereto;
- (9) Bonds of the federal home loan banks;
- (10) Any bonds or other obligations guaranteed as to payment of principal and interest by the government of the United States or any agency or instrumentality thereof;
- (11) Bonds of any political subdivision established pursuant to the provisions of section

30, article VI, of the Constitution of Missouri;

(12) Tax anticipation notes issued by any county of the first classification;

(13) A surety bond issued by an insurance company licensed pursuant to the laws of the state of Missouri whose claims-paying ability is rated in the highest category by at least one nationally recognized statistical rating agency. The face amount of such surety bond shall be at least equal to the portion of the deposit to be secured by the surety bond;

(14) An irrevocable standby letter of credit issued by a Federal Home Loan Bank possessing the highest rating issued by at least one nationally recognized statistical rating agency;

**(15) General obligation bonds of any political subdivision in the United States of America rated in the highest category by at least one nationally recognized statistical rating agency.**

2. Securities deposited shall be in an amount valued at market equal at least to one hundred percent of the aggregate amount on time deposit as well as on demand deposit with the particular financial institution less the amount, if any, which is insured either by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation or by the National Credit Unions Share Insurance Fund.

3. The securities or book entry receipts shall be delivered to the state treasurer and accepted for by the state treasurer and retained by the treasurer or by financial institutions that the governor, state auditor and treasurer agree upon. The state treasurer shall from time to time inspect the securities and book entry receipts and see that they are actually held by the state treasury or by the financial institutions selected as the state depositories. The governor and the state auditor may inspect or request an accounting of the securities or book entry receipts, and if in any case, or at any time, the securities are not satisfactory security for deposits made as provided by law, they may require additional security to be given that is satisfactory to them.

4. Any securities deposited pursuant to this section may from time to time be withdrawn and other securities described in the list provided for in subsection 1 of this section may be substituted in lieu of the withdrawn securities with the consent of the treasurer; but a sufficient amount of securities to secure the deposits shall always be held by the treasury or in the selected depositories.

5. If a financial institution of deposit fails to pay a deposit, or any part thereof, pursuant to the terms of its contract with the state treasurer, the state treasurer shall forthwith convert the securities into money and disburse the same according to law.

6. Any financial institution making deposits of bonds with the state treasurer pursuant to the provisions of this chapter may cause the bonds to be endorsed or stamped as it deems proper, so as to show that they are deposited as collateral and are not transferable except upon the conditions of this chapter or upon the release by the state treasurer.

**30.951. 1. There is hereby created a "Local Government Investment Pool", consisting of the aggregate of all funds from local officials handling public funds that are placed in the custody of the state treasurer pursuant to this section and sections 30.260, 30.270, and 30.952, for investment and reinvestment as provided in this section. As used in this section, the following terms mean:**

**(1) "Governing body", the board, body or persons in which the powers of a municipality or political subdivision are vested;**

**(2) "Municipality", municipal corporations, political corporations, and other public corporations and agencies authorized to exercise governmental functions;**

**(3) "Political subdivision", counties, townships, cities, towns, villages, schools, county libraries, city libraries, city-county libraries, road, drainage, sewer, levee and fire districts, soil and water conservation districts, watershed subdistricts, county hospitals, and any board of control of an art museum, and any other public subdivision or public corporation having the power to tax.**

**2. Notwithstanding any other provision of law to the contrary, the governing body, or any person designated by the governing body of any municipality or political subdivision of this state having authority to receive, hold, and expend public moneys or funds, may invest and reinvest in accordance with this section any moneys, including proceeds of bonds, notes or other indebtedness, which are not immediately required for the purposes for which the moneys were collected or received.**

**3. The state treasurer may administer the local government investment pool on behalf of the participating local officials. The treasurer may promulgate such rules and regulations as the treasurer deems necessary for the efficient administration of the pool, including specification of minimum investment amounts and minimum investment periods. The rules may provide for the administration expenses of the pool to be paid from its earning and for the interest earnings in excess of such expenses to be credited or paid to the participants in the pool in a manner which equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in the pool. The state treasurer may contract with financial institutions and other service providers in furtherance of the purposes of this act.**

**4. The local government investment pool may invest funds, either directly, or through repurchase agreements or through money market mutual funds as defined and regulated in Rule 2a-7 of the Securities and Exchange Commission, solely in the obligations authorized in section 15, article IV of the Missouri Constitution.**

**5. The state treasurer shall ensure all funds in the local government investment pool are invested with the same degree of judgement and care, under**

circumstances then prevailing, used in the investment of state funds.

6. A separate account for each participant in the fund shall be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report showing the changes in investments made during the preceding month shall be furnished to each participant in the local government investment pool.

7. The principal and accrued income, and any part thereof, of each and every account maintained for a participant in the local government investment pool shall be subject to payment at any time from the pool upon request, subject to applicable regulations and guidelines. Accumulated income shall be remitted or credited to each participant at least quarterly.

8. The state treasurer may appoint an advisory board to assist in the marketing and administration of the local government investment pool. At least seventy-five percent of the advisory board shall be comprised of participants in the investment pool.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

30.952. Notwithstanding any other provision of law to the contrary, any municipality or political subdivision of this state, as defined in section 30.951, may invest in money market mutual funds, as defined and regulated in Rule 2a-7 of the Securities and Exchange Commission, that invest solely in securities in which the state treasurer is authorized to invest.