

[First Reprint]

ASSEMBLY, No. 4404

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED DECEMBER 15, 2016

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

SYNOPSIS

Permits local units and school districts to invest in local government investment pools managed in accordance with applicable Governmental Accounting Standards Board guidelines.

CURRENT VERSION OF TEXT

As reported by the Assembly State and Local Government Committee on December 4, 2017, with amendments.



1 AN ACT concerning local government investment pools and
2 amending P.L.1977, c.177 and P.L.1977, c.396.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1977, c.177 (C.18A:20-37) is amended to
8 read as follows:

9 1. a. When authorized by resolution adopted by a majority vote
10 of all its members the board of education of any school district may
11 use moneys, which may be in hand, for the purchase of the
12 following types of securities which, if suitable for registry, may be
13 registered in the name of the school district:

14 (1) Bonds or other obligations of the United States of America
15 or obligations guaranteed by the United States of America;

16 (2) Government money market mutual funds;

17 (3) Any obligation that a federal agency or a federal
18 instrumentality has issued in accordance with an act of Congress,
19 which security has a maturity date not greater than 397 days from
20 the date of purchase, provided that such obligations bear a fixed rate
21 of interest not dependent on any index or other external factor;

22 (4) Bonds or other obligations of the school district or bonds or
23 other obligations of the local unit or units within which the school
24 district is located;

25 (5) Bonds or other obligations, having a maturity date of not
26 more than 397 days from the date of purchase, ¹issued by New
27 Jersey school districts, municipalities, counties, and entities subject
28 to the “Local Authorities Fiscal Control Law,” P.L.1983, c.313
29 (C.40A:5A-1 et seq.). Other bonds or obligations having a
30 maturity date not more than 397 days from the date of purchase may
31 be¹ approved by the Division of Investment in the Department of
32 the Treasury for investment by school districts;

33 (6) Local government investment pools;

34 (7) Deposits with the State of New Jersey Cash Management
35 Fund established pursuant to section 1 of P.L.1977, c.281
36 (C.52:18A-90.4); or

37 (8) Agreements for the repurchase of fully collateralized
38 securities, if:

39 (a) the underlying securities are permitted investments pursuant
40 to paragraphs (1) and (3) of this subsection a. ¹or are bonds or other
41 obligations, having a maturity date of not more than 397 days from
42 the date of purchase, issued by New Jersey school districts,
43 municipalities, counties, and entities subject to the requirements of

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ASL committee amendments adopted December 4, 2017.

1 the “Local Authorities Fiscal Control Law,” P.L.1983, c.313
2 (C.40A:5A-1 et seq.)¹;

3 (b) the custody of collateral is transferred to a third party;

4 (c) the maturity of the agreement is not more than 30 days;

5 (d) the underlying securities are purchased through a public
6 depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41)
7 and for which a master repurchase agreement providing for the
8 custody and security of collateral is executed.

9 b. Any investment instruments in which the security is not
10 physically held by the school district shall be covered by a third
11 party custodial agreement which shall provide for the designation of
12 such investments in the name of the school board and prevent
13 unauthorized use of such investments.

14 c. Purchase of investment securities shall be executed by the
15 "delivery versus payment" method to ensure that securities are
16 either received by the school district or a third party custodian prior
17 to or upon the release of the school district's funds.

18 d. Any investments not purchased and redeemed directly from
19 the issuer, government money market mutual fund, local
20 government investment pool, or the State of New Jersey Cash
21 Management Fund, shall be purchased and redeemed through the
22 use of a national or State bank located within this State or through a
23 broker-dealer which, at the time of purchase or redemption, has
24 been registered continuously for a period of at least two years
25 pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least
26 \$25 million in capital stock (or equivalent capitalization if not a
27 corporation), surplus reserves for contingencies and undivided
28 profits, or through a securities dealer who makes primary markets
29 in U.S. Government securities and reports daily to the Federal
30 Reserve Bank of New York its position in and borrowing on such
31 U.S. Government securities.

32 e. For the purposes of this section:

33 (1) a "government money market mutual fund" means an
34 investment company or investment trust:

35 (a) which is registered with the Securities and Exchange
36 Commission under the "Investment Company Act of 1940," 15
37 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R.
38 s.270.2a-7¹, except that a government money market mutual fund
39 may not impose liquidity fees or redemption gates regardless of
40 whether permitted to do so under 17 C.F.R. s.270.2a-7¹;

41 (b) the portfolio of which is limited to U.S. Government
42 securities ¹that meet the definition of an eligible security pursuant
43 to 17 C.F.R. s.270.2a-7, securities that have been issued by New
44 Jersey school districts, municipalities, counties, and entities
45 subject to the requirements of the “Local Authorities Fiscal Control
46 Law,” P.L.1983, c.313 (C.40A:5A-1 et seq.)¹ that meet the
47 definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7

1 and repurchase agreements that are collateralized by such ¹["U.S.
2 Government"]¹ securities in which direct investment may be made
3 pursuant to paragraphs (1) ¹["and"]¹ (3) ¹, and (5)¹ of subsection a.
4 of this section ; and

5 (c) which is rated by a nationally recognized statistical rating
6 organization.

7 (2) a "local government investment pool" means an investment
8 pool:

9 (a) which is managed in accordance with 17 C.F.R. s.270.2a-
10 7 generally accepted accounting and financial reporting principles
11 for local government investment pools established by the
12 Governmental Accounting Standards Board;

13 (b) which is rated in the highest category by a nationally
14 recognized statistical rating organization;

15 (c) the portfolio of which is limited to U.S. Government
16 securities ¹that meet the definition of an eligible security pursuant
17 to 17C.F.R.s.270.2a-7, securities that have been issued by New
18 Jersey school districts, municipalities, counties, and entities
19 subject to the requirements of the "Local Authorities Fiscal Control
20 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.)¹ that meet the
21 definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7
22 and repurchase agreements that are collateralized by such ¹["U.S.
23 Government"]¹ securities in which direct investment may be made
24 pursuant to paragraphs (1) ¹["and"]¹ (3) ¹, and (5)¹ of subsection a.
25 of this section;

26 (d) which is in compliance with ¹such¹ rules ¹as may be¹
27 adopted pursuant to the "Administrative Procedure Act," P.L.1968,
28 c.410 (C.52:14B-1 et seq.) by the Local Finance Board of the
29 Division of Local Government Services in the Department of
30 Community Affairs, which ¹may promulgate¹ rules ¹["shall provide]
31 providing¹ for disclosure and reporting requirements, and other
32 provisions deemed necessary by the board to provide for the safety,
33 liquidity and yield of the investments;

34 (e) which does not permit investments in instruments that: are
35 subject to high price volatility with changing market conditions;
36 cannot reasonably be expected, at the time of interest rate
37 adjustment, to have a market value that approximates their par
38 value; or utilize an index that does not support a stable net asset
39 value ; ¹["and"]¹

40 (f) which purchases and redeems investments directly from the
41 issuer, a government money market mutual fund, or the State of
42 New Jersey Cash Management Fund, or through the use of a
43 national or State bank located within this State, or through a broker-
44 dealer which, at the time of purchase or redemption, has been
45 registered continuously for a period of at least two years pursuant to
46 section 9 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million
47 in capital stock (or equivalent capitalization if not a corporation),

1 surplus reserves for contingencies and undivided profits, or through
2 a securities dealer who makes primary markets in U.S. Government
3 securities and reports daily to the Federal Reserve Bank of New
4 York its position in and borrowing on such U.S. Government
5 securities ¹; and

6 (g) which does not impose liquidity fees or redemption gates¹.

7 f. Investments in, or deposits or purchases of financial
8 instruments made pursuant to this section shall not be subject to the
9 requirements of the "Public School Contracts Law,"
10 N.J.S.18A:18A-1 et seq.

11 (cf: P.L.1997, c.148, s.1)

12

13 2. Section 8 of P.L.1977, c.396 (C.40A:5-15.1) is amended to
14 read as follows:

15 8. Securities which may be purchased by local units.

16 a. When authorized by a cash management plan approved
17 pursuant to N.J.S.40A:5-14, any local unit may use moneys which
18 may be in hand for the purchase of the following types of securities
19 which, if suitable for registry, may be registered in the name of the
20 local unit:

21 (1) Bonds or other obligations of the United States of America
22 or obligations guaranteed by the United States of America;

23 (2) Government money market mutual funds;

24 (3) Any obligation that a federal agency or a federal
25 instrumentality has issued in accordance with an act of Congress,
26 which security has a maturity date not greater than 397 days from
27 the date of purchase, provided that such obligation bears a fixed rate
28 of interest not dependent on any index or other external factor;

29 (4) Bonds or other obligations of the local unit or bonds or other
30 obligations of school districts of which the local unit is a part or
31 within which the school district is located;

32 (5) Bonds or other obligations, having a maturity date not more
33 than 397 days from the date of purchase, ¹issued by New Jersey
34 school districts, municipalities, counties, and entities subject to the
35 "Local Authorities Fiscal Control Law," P.L.1983, c.313
36 (C.40A:5A-1 et seq.). Other bonds or obligations having a maturity
37 date not more than 397 days from the date of purchase may be¹

38 approved by the Division of Local Government Services in the
39 Department of Community Affairs for investment by local units;

40 (6) Local government investment pools;

41 (7) Deposits with the State of New Jersey Cash Management
42 Fund established pursuant to section 1 of P.L.1977, c.281
43 (C.52:18A-90.4); or

44 (8) Agreements for the repurchase of fully collateralized
45 securities, if:

46 (a) the underlying securities are permitted investments pursuant
47 to paragraphs (1) and (3) of this subsection a. ¹or are bonds or other

- 1 obligations, having a maturity date not more than 397 days from the
2 date of purchase, issued by New Jersey school districts,
3 municipalities, counties, and entities subject to the "Local
4 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
5 seq.¹;
- 6 (b) the custody of collateral is transferred to a third party;
- 7 (c) the maturity of the agreement is not more than 30 days;
- 8 (d) the underlying securities are purchased through a public
9 depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41);
10 and
- 11 (e) a master repurchase agreement providing for the custody and
12 security of collateral is executed.
- 13 b. Any investment instruments in which the security is not
14 physically held by the local unit shall be covered by a third party
15 custodial agreement which shall provide for the designation of such
16 investments in the name of the local unit and prevent unauthorized
17 use of such investments.
- 18 c. Purchase of investment securities shall be executed by the
19 "delivery versus payment" method to ensure that securities are
20 either received by the local unit or a third party custodian prior to or
21 upon the release of the local unit's funds.
- 22 d. Any investments not purchased and redeemed directly from
23 the issuer, government money market mutual fund, local
24 government investment pool, or the State of New Jersey Cash
25 Management Fund, shall be purchased and redeemed through the
26 use of a national or State bank located within this State or through a
27 broker-dealer which, at the time of purchase or redemption, has
28 been registered continuously for a period of at least two years
29 pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least
30 \$25 million in capital stock (or equivalent capitalization if not a
31 corporation), surplus reserves for contingencies and undivided
32 profits, or through a securities dealer who makes primary markets
33 in U.S. Government securities and reports daily to the Federal
34 Reserve Bank of New York its position in and borrowing on such
35 U.S. Government securities.
- 36 e. For the purposes of this section:
- 37 (1) a "government money market mutual fund" means an
38 investment company or investment trust:
- 39 (a) which is registered with the Securities and Exchange
40 Commission under the "Investment Company Act of 1940," 15
41 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R.
42 s.270.2a-7¹, except that a government money market mutual fund
43 may not impose liquidity fees or redemption gates regardless of
44 whether permitted to do so under 17 C.F.R. s.270.2a-7¹;
- 45 (b) the portfolio of which is limited to U.S. Government
46 securities ¹that meet the definition of an eligible security pursuant
47 to 17 C.F.R. s.270.2a-7, securities that have been issued by New
48 Jersey school districts, municipalities, counties, and entities subject

1 to the “Local Authorities Fiscal Control Law,” P.L.1983, c.313
2 (C.40A:5A-1 et seq.)¹ that meet the definition of an eligible security
3 pursuant to 17 C.F.R. s.270.2a-7, and repurchase agreements that
4 are collateralized by such ¹U.S. Government¹ securities in which
5 direct investment may be made pursuant to paragraphs (1) ¹and¹ ,¹
6 (3) ¹, and (5)¹ of subsection a. of this section; and

7 (c) which is rated by a nationally recognized statistical rating
8 organization.

9 (2) a "local government investment pool" means an investment
10 pool:

11 (a) which is managed in accordance [with 17 C.F.R. s.270.2a-
12 7] ¹with¹ generally accepted accounting and financial reporting
13 principles for local government investment pools established by the
14 Governmental Accounting Standards Board;

15 (b) which is rated in the highest category by a nationally
16 recognized statistical rating organization;

17 (c) which is limited to U.S. Government securities ¹that meet
18 the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-
19 7, securities that have been issued by New Jersey school districts,
20 municipalities, counties, and entities subject to the “Local
21 Authorities Fiscal Control Law,” P.L.1983, c.313 (C.40A:5A-1 et
22 seq.)¹ that meet the definition of an eligible security pursuant to 17
23 C.F.R. 270.2a-7 and repurchase agreements that are collateralized
24 by such ¹U.S. Government¹ securities in which direct investment
25 may be made pursuant to paragraphs (1) ¹and¹ ,¹ (3) ¹, and (5)¹ of
26 subsection a. of this section;

27 (d) which is in compliance with ¹such¹ rules ¹as may be¹
28 adopted pursuant to the "Administrative Procedure Act," P.L.1968,
29 c.410 (C.52:14B-1 et seq.) by the Local Finance Board of the
30 Division of Local Government Services in the Department of
31 Community Affairs, which ¹may promulgate¹ rules ¹[shall provide]
32 providing¹ for disclosure and reporting requirements, and other
33 provisions deemed necessary by the board to provide for the safety,
34 liquidity and yield of the investments;

35 (e) which does not permit investments in instruments that: are
36 subject to high price volatility with changing market conditions;
37 cannot reasonably be expected, at the time of interest rate
38 adjustment, to have a market value that approximates their par
39 value; or utilize an index that does not support a stable net asset
40 value; ¹and¹

41 (f) which purchases and redeems investments directly from the
42 issuer, government money market mutual fund, or the State of New
43 Jersey Cash Management Fund, or through the use of a national or
44 State bank located within this State, or through a broker-dealer
45 which, at the time of purchase or redemption, has been registered
46 continuously for a period of at least two years pursuant to section 9
47 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital

1 stock (or equivalent capitalization if not a corporation), surplus
2 reserves for contingencies and undivided profits, or through a
3 securities dealer who makes primary markets in U.S. Government
4 securities and reports daily to the Federal Reserve Bank of New
5 York its position in and borrowing on such U.S. Government
6 securities ¹; and

7 (g) which does not impose liquidity fees or redemption gates¹.

8 f. Investments in, or deposits or purchases of financial
9 instruments made pursuant to this section shall not be subject to the
10 requirements of the "Local Public Contracts Law," P.L.1971, c.198
11 (C.40A:11-1 et seq.).

12 (cf: P.L.2015, c.95, s.16)

13

14 3. This act shall take effect immediately.