LOCAL AGENCY INVESTMENT GUIDELINES

CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION

Update for 2017

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California Debt and Investment Advisory Commission

The California Debt and Investment Advisory Commission (CDIAC) provides information, education, and technical assistance on debt issuance and public fund investments to local agencies and public finance professionals. CDIAC also serves as the State's clearinghouse for public debt issuance information.

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About the Local Agency Investment Guidelines

The *Local Agency Investment Guidelines* is intended to aid local officials in their efforts to implement existing laws pertaining to the investment of public funds. Each year, CDIAC staff convenes a working group of public- and private-sector professionals to support its efforts to revise and update these *Guidelines*.

THOSE PARTICIPATING IN THE 2017 GUIDELINES INCLUDE:

- Constantine Baranoff, *Shareholder, Kronick Moskovitz Tiedemann & Girard*
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This document briefly describes each issue, offers an interpretation of the minimum compliance requirements, and provides consensus recommendations where the working group deemed them necessary. These interpretations represent the best judgment of the professionals involved and are intended only as a guide for local agencies in their compliance. Agencies should rely only on their legal counsel for legal advice.

The *Local Agency Investment Guidelines* update for 2017 reflects statutory changes adopted by the Legislature and signed by the Governor effective January 1, 2017. It is divided into chapters on investment policy, fund management, reporting requirements, and the treasury oversight committee. Please note that one issue may not fit neatly into the following four chapters.

Generally speaking, all local agencies are subject to the reporting, fund management, and investment policy requirements. Only county governments may be subject to the county oversight committee requirements. Any jurisdiction that assumes it is not covered by these provisions should seek legal counsel. California Government Code Section 53600 states:

> *As used in this article, "local agency" means a county, city, city and county, including a chartered city or county, school district, community college district, public district, county board of education, county superintendent of schools, or any public or municipal corporation.*

Summary of Statutory Changes

The 2017 *Local Agency Investment Guidelines* incorporates the following statutory changes: Government Code Section 53601.

Chapter 366, Statutes of 2016 (SB 974) clarify and amend statutory rating requirements contained in Government Code 53601. Specifically rating requirements now refer to a rating category which is inclusive of any rating modifiers such as "+"/"–" or numbers and to include equivalent ratings from Nationally Recognized Statistical Rating Organizations (NRSRO). The specific sections of code that were amended were Government Code Sections 53601(h)(1)(C) Commercial Paper, 53601(k) Medium Term Notes, 53601(o) Mortgage Passthrough Securities, and 53601(q) Supranationals.

All references to statutory code "sections" throughout this document shall refer to California Government Code unless otherwise stated.

Chapter I. The Annual Investment Policy

A good investment policy encompasses the cash, treasury, and investment management functions of an agency. It serves as a guide for setting and achieving program objectives, defines rules and establishes benchmarks, and reduces the exposure to liability of both the investment staff and the governing board. It is also important to note that rating agencies pay close attention to an agency's investment policy and portfolio in determining its credit rating.

I. A Should local agencies produce an investment policy? Should the investment policy be presented to the local agency's legislative body? [Section 53646(a)][1]

The investment policy serves as the foundation of a local agency's investment goals and priorities. If the investment policy is carefully researched, effectively drafted, and reviewed regularly to assure that it continues to meet the agency's goals/priorities for its portfolio, it can help protect the assets of the organization. The existence of an approved investment policy demonstrates that the governing body is performing its fiduciary responsibilities, thereby, inspiring trust and confidence among the public that it serves.

MINIMUM LEGAL REQUIREMENTS:

Section 53646(a)(1) states that the treasurer of a county government may annually render to his/her board of supervisors and oversight committee an investment policy, which the board shall review and approve at a public meeting. In addition, the board shall review and approve any changes to the investment policy at a public meeting.

Section 53646(a)(2) states that the treasurer or chief fiscal officer of any other local agency may annually render to his/her legislative body and any oversight committee an investment policy, that the legislative body shall consider at a public meeting. This raises questions about whether or not the policy should be

[1] *All statutory references are to the California Government Code unless otherwise noted.*

adopted officially by the legislative body, and the time during the year that this "consideration" should take place.

CONSENSUS RECOMMENDATION:

An investment policy should always be in place. While not required by statute, it is in the best interest of the local agency to present and discuss the policy with the agency's legislative body or oversight committee, and then have the policy approved by a vote of the legislative body. A public vote signifies that the legislative body shares fiduciary responsibility with the treasurer, increases the authority and legitimacy of the investment policy, and provides transparency and disclosure.

I. B When should the investment policy be reviewed and updated? How should the investment policy be rendered to the legislative body? [Section 53646(a)]

The size and complexity of the investment policy, portfolio, agency and the agency's staff are factors that may affect the frequency of the investment policy review and revision.

MINIMUM LEGAL REQUIREMENT:

Section 53646(a) provides that if an investment policy is submitted to the local agency's legislative body, it must be an agenda item at a public meeting. If submitted to a county board of supervisors, the board is required to review and approve the investment policy and any changes to it at the public meeting. The statute does not place the same specific approval requirements on other local agencies, but it does require consideration. The statute does not specify, however, when during the year that consideration or approval should occur.

CONSENSUS RECOMMENDATION:

Both the Association of Public Treasurers of the United States & Canada and the Government Finance Officers Association have established policy standards that recommend investment policies be reviewed annually. At a minimum, the internal treasury staff should conduct a review annually. Ideally, the review should be timed to coincide with the end of the state legislative cycle so that consideration may be given to any changes in statute that may impact the agency's policy.

An update in the investment policy is warranted if treasury staff's review results in a material change in policy due to either a change in statute or a change in the agency's goals and objectives for safety, liquidity and yield. A change in statute, however, may not necessarily require a change in the policy. Many agencies' policies are already more restrictive than statute. Likewise, an agency may choose to update its policy to restrict the purchase of a new investment product that is allowable by statute but that the agency deems to be too risky for its investment portfolio.

Although rendering the investment policy to the legislative body or oversight committee is not required, it is highly recommended. If it is done, it should be done annually, on an established schedule, such as after the annual review and update.

For newly-elected legislative body members, election terms may not coincide with the investment policy review. But, because of the fiduciary responsibility of the legislative body, any newly-elected members should be made aware of the existence of the investment policy and its contents as soon as possible.

I. C What information should be included in the investment policy? [Section 27133]

MINIMUM LEGAL REQUIREMENTS:

Except for county governments, the California Government Code does not contain any provisions specifying what must be included in the investment policy of a local agency. Section 27133 provides that county investment policies must contain:

- A list of securities or other instruments in which the county treasury may invest, according to the law, including the maximum percentage by type of security, and the maximum term of any security purchased;
- The manner of calculating and apportioning the authorized costs of investing, depositing, banking, auditing, reporting, handling, and managing of funds;
- Limits on the receipt of honoraria, gifts, and gratuities for county treasury oversight members from advisors, brokers, dealers, bankers, or other persons with whom the county treasury conducts business;
- Criteria for selecting brokers and dealers (including prohibitions against selecting any broker, dealer, or security firm within any consecutive 48 month period of making a campaign contribution exceeding the limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board);
- A requirement that the treasurer provide the county treasury oversight committee with an investment report as required by the Board of Supervisors;
- Terms and conditions under which other local agencies that are not required to deposit funds may deposit funds in the county treasury if they so choose; and
- Criteria for considering requests to withdraw funds from the county treasury.

The last two of the above elements directly refer to the duties counties have in maintaining a local government investment pool.

CONSENSUS RECOMMENDATION:

Although statute does not specify the contents of the investment policy for local agencies other than counties, it should include at a minimum, the first five elements required of counties. In addition, the policy should specify the funds to which the policy will and will not apply. For instance, bond proceeds are usually guided by the bond documents and thus, may not be a part of the investment policy. Similarly, pension funds are guided by other code sections and may have different investment objectives.

The Association of Public Treasurers of the United States & Canada offers an Investment Policy Program that provides public investors with guidance and technical assistance in developing a comprehensive written investment policy at **www.aptusc.org**. The Government Finance Officers Association also has a sample investment policy available for purchase. The California Municipal Treasurers Association (CMTA) has sample investment policies that were certified through CMTA's Investment Policy Certification Program and can be found at **www.cmta.org/page/InvestmentPolicyCert**. Additional sources for recommended elements of an investment policy can be found in CDIAC's *California Public Fund Investment Primer* and *Investment Policy Reporting Practices: An Informational Guide*. These two publications can be found at **www.treasurer.ca.gov/cdiac**.

I. D How is the limit on a political contribution determined when selecting brokers and dealers? [Section 27133 (c) and MSRB Rule G-37]

The county treasury shall not select brokers and dealers who individually, or as a firm, have contributed more than the $250 or the current limit established under Municipal Securities Regulatory Board (MSRB) Rule G-37.

MINIMUM LEGAL REQUIREMENT:

The county treasury is prohibited from selecting those brokers, brokerage firms, dealers, or securities firms having made political contributions within the last four years, which exceed the amount set forth in MSRB Rule G-37. For 2017, the limit is $250. This limit applies to the local treasurer, any member of the governing board of the local agency, or any candidate for those offices.

In addition to the provisions outlined in Section 27133 and MSRB Rule G-37, local agencies, the state, and the Fair Political Practices Commission (FPPC) may adopt additional standards on acceptable political contribution limits. For reference, the local treasurer, any member of the governing board

of the local agency, and treasury staff are required to report any gift of $50 or more on his or her annual Form 700 submission to the FPPC.

CONSENSUS RECOMMENDATION:

All treasury staff should be knowledgeable of the specific state and local laws and ordinances governing their receipt of political contributions, gifts, and honoraria. Although the MSRB Rule G-37 applies to the local treasurer and the governing board of the local agency, treasury staff are likely subject to additional rules set forth by the FPPC and the local agency. If there is no policy on the receipt of political contributions, gifts, or honoraria at the local agency level, establish one and educate all agency employees who affect treasury decisions.

I. E What constraints can county pools place on voluntary depositors? [Section 27133(g)]

County treasurers have difficulty predicting withdrawals of voluntary funds made by pool participants. As a result, questions commonly arise regarding how county pools should treat funds from voluntary depositors. In the absence of information on a depositor's cash flow, an unanticipated withdrawal can create potential liquidity problems for the pool.

MINIMUM LEGAL REQUIREMENT:

State law does not require county pools to accept voluntary deposits.

CONSENSUS RECOMMENDATION:

Allow voluntary deposits only under a clearly written contract or memorandum of understanding. This agreement should spell out the exact rules for participating in the pool and provide the county treasurer with reasonable predefined discretion to establish the frequency and amount of voluntary funds that can be removed from the pool at a particular time. Another option is to ban voluntary deposits altogether if the county has confidence that other local agencies have reasonable investment alternatives.

Chapter II. Fund Management

For the investment of county funds in a county treasury, Section 27000.3 establishes the Board of Supervisors as a fiduciary that is subject to the prudent investor standard unless it delegates its investment duties to the county treasurer. For other local agencies' funds invested in the county treasury, the county treasurer serves as a fiduciary and is subject to the prudent investor standard.

Except as provided for in Section 27000.3, Section 53600.3 declares as a trustee each person, treasurer, or governing body authorized to make investment decisions on behalf of local agencies. As trustees these individuals are subject to the prudent investor standard. That is, they shall act with care, skill, prudence, and diligence under the circumstances then prevailing when investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing funds. Section 53600.5 further stipulates that the objectives of any person investing public funds is to, first, safeguard principal; second, to meet the liquidity needs of the depositor; and lastly, to achieve a return or yield on the funds under its control (Section 27000.5 specifies the same objectives for county treasurers and boards of supervisors).

Risk is inherent throughout the investment process. There is investment risk associated with any investment activity and opportunity risk related to inactivity. Market risk is derived from exposure to overall changes in the general level of interest rates while credit risk is the risk of loss due to the failure of the issuer of a security. The market value of a security varies inversely with the level of interest rates. If an investor is required to sell an investment with a five percent yield in a comparable seven percent rate environment, that security will be sold at a loss. The magnitude of that loss will depend on the amount of time until maturity.

Purchasing certain allowable securities with a maturity of greater than five years requires approval of the governing board (see Section 53601). Part of that approval process involves assessing and disclosing the risk and possible volatility associated with longer-term investments.

Another element of risk is liquidity risk. Instruments with extraordinary or special call features, sinking fund redemption structures, or those issued by little known issuers, are examples of "story bonds" and often are thinly traded. Their uniqueness often makes finding prospective buyers in a secondary market more

difficult and, consequently, the securities' marketability and prices may be discounted. However, under certain market conditions, gains may also be possible with these types of securities.

Default risk represents the possibility that the borrower may be unable to repay the obligation as scheduled. Generally, securities issued by the federal government and its agencies are considered the most secure, while securities issued by private corporations, or negotiable certificates of deposit issued by commercial banks have a greater degree of risk. Securities with additional credit enhancements, such as bankers' acceptances, collateralized repurchase agreements, and collateralized bank deposits, are somewhere between the two on the risk spectrum.

The vast majority of local agency portfolios are managed with a buy and hold investment strategy. Investments are purchased with the intent and capacity to hold them until maturity. At times, market forces or operations may dictate exchanging one security for another or selling a security before maturity. Continuous analysis and fine tuning of the investment portfolio are considered part of prudent investment management. This passive investment strategy is different from one in which securities are purchased with the intent to sell them before maturity at a profit or the use of leverage to enhance yield

California Government Code contains specific provisions regarding the types of investments and practices permitted after considering the broad requirement of preserving principal and maintaining liquidity before seeking yield. These provisions are intended to promote the use of reliable, diverse, and safe investment instruments to better ensure a prudently managed portfolio worthy of public trust.

II. A Which investments are permissible? Which are prohibited? [Sections 16340, 16429.1, 53601, 53601.6, 53601.8, 53635, 53635.2, 53635.8, 53638, and 53684]

MINIMUM LEGAL REQUIREMENT:

Local agencies may invest only in those instruments specified in State law.

Sections 16340, 16429.1, 53601, 53601.6, 53601.8, 53635, 53635.2, 53635.8, 53638, and 53684 include a number of requirements on how and where public money may be invested. Figure 1 provides a synopsis of the permitted investment instruments and limitations on each, in which all local agencies may invest.

Prohibited investments include securities not listed in Figure 1, as well as inverse floaters, range notes, interest only strips derived from a pool of mortgages, and any security that could result in zero interest accrual[2] if held to maturity as specified in Section 53601.6. This restriction does not apply to local agency investments in shares of beneficial interest issued by diversified management companies registered under the Investment Company Act of 1940 that are authorized for investment pursuant to subdivision (l) of Section 53601.

Section 53601 provides that public agencies may invest in bonds issued by the local agency itself. In 2008, the Legislature added Section 5925 to clarify that the purchase of bonds by the local agency that issued the bonds does not cancel or otherwise affect the bonds. This addressed concerns that the purchased bonds would be considered defeased or refunded under certain Treasury Rules. With the addition of Section 5925 the repurchased or acquired bonds may be treated as outstanding bonds to the extent provided by the issuer or the documents defining the rights of the bondholders.

CONSENSUS RECOMMENDATION:

Local agencies should include the list of permissible securities in the investment policy and modify the list to meet its unique needs. These modifications may include additional restrictions on the type and amount of specific authorized securities to reflect current federal tax and securities regulations and an agency's risk tolerance.

The addition of Code Section 5925 authorizing State and local agencies to purchase their own bonds was intended to be complementary to Internal Revenue Service (IRS) Notice 2008-41 and 2008-88 that allowed municipal issuers to temporarily hold certain types of their own tax-exempt debt without extinguishment or loss of tax-exempt status. However, these IRS provisions were meant to be temporary and sunset, with some remaining exceptions for certain variable rate debt, on December 31, 2010. Given the incongruity between Section 5925 and IRS rules, a local agency should seek legal guidance on the potential tax implications of purchasing its own debt.

As a result of amendments to Government Code Sections 53601.8 and 53635.8, local agencies should review portfolio limitations for CDs and negotiable CDs in their investment policies.

Some investments, such as straight floaters or floating rate notes that are not otherwise prohibited have the potential to result in zero interest accrual. Before purchasing these types of investments, the local agency should evaluate all possible outcomes, and, as a safeguard, should consider including in its investment policy a statement establishing an acceptable positive spread or floor for all securities, which pay interest based on a spread to an index. Also, while not

[2] *Zero interest accrual means the security has the potential to realize zero interest depending upon the structure of the security. Zero coupon bonds and similar investments that start at a level below the face value are legal because their value does increase.*

FIGURE 1

ALLOWABLE INVESTMENT INSTRUMENTS PER STATE GOVERNMENT CODE (AS OF JANUARY 1, 2017)[A] APPLICABLE TO ALL LOCAL AGENCIES[B]

See "Table of Notes for Figure 1" on the next page for footnotes related to this figure.

INVESTMENT TYPE	MAXIMUM MATURITY[C]	MAXIMUM SPECIFIED % OF PORTFOLIO[D]	MINIMUM QUALITY REQUIREMENTS
Local Agency Bonds	5 years	None	None
U.S. Treasury Obligations	5 years	None	None
State Obligations—CA And Others	5 years	None	None
CA Local Agency Obligations	5 years	None	None
U.S Agency Obligations	5 years	None	None
Bankers' Acceptances	180 days	40%[E]	None
Commercial Paper—Pooled Funds[I]	270 days	40% of the agency's money[G]	Highest letter and number rating by an NRSRO[H]
Commercial Paper—Non-Pooled Funds[F]	270 days	25% of the agency's money[G]	Highest letter and number rating by an NRSRO[H]
Negotiable Certificates of Deposit	5 years	30%[J]	None
Non-negotiable Certificates of Deposit	5 years	None	None
Placement Service Deposits	5 years	30%[K]	None
Placement Service Certificates of Deposit	5 years	30%[K]	None
Repurchase Agreements	1 year	None	None
Reverse Repurchase Agreements and Securities Lending Agreements	92 days[L]	20% of the base value of the portfolio	None[M]
Medium-Term Notes[N]	5 years	30%	"A" rating category or its equivalent or better
Mutual Funds And Money Market Mutual Funds	N/A	20%	Multiple[P,Q]
Collateralized Bank Deposits	5 years	None	None
Mortgage Pass-Through Securities	5 years	20%	"AA" rating category or its equivalent or better [R]
County Pooled Investment Funds	N/A	None	None
Joint Powers Authority Pool	N/A	None	Multiple[S]
Local Agency Investment Fund (LAIF)	N/A	None	None
Voluntary Investment Program Fund[T]	N/A	None	None
Supranational Obligations[U]	5 years	30%	"AA" rating category or its equivalent or better

TABLE OF NOTES FOR FIGURE 1

[A] *Sources: Sections 16340, 16429.1, 53601, 53601.8, 53635, 53635.2, 53635.8, and 53638.*

[B] *Municipal Utilities Districts have the authority under the Public Utilities Code Section 12871 to invest in certain securities not addressed here.*

[C] *Section 53601 provides that the maximum term of any investment authorized under this section, unless otherwise stated, is five years. However, the legislative body may grant express authority to make investments either specifically or as a part of an investment program approved by the legislative body that exceeds this five year maturity limit. Such approval must be issued no less than three months prior to the purchase of any security exceeding the five-year maturity limit.*

[D] *Percentages apply to all portfolio investments regardless of source of funds. For instance, cash from a reverse repurchase agreement would be subject to the restrictions.*

[E] *No more than 30 percent of the agency's money may be in bankers' acceptances of any one commercial bank.*

[F] *"Select Agencies" are defined as a "city, a district, or other local agency that do[es] not pool money in deposits or investment with other local agencies, other than local agencies that have the same governing body."*

[G] *Local agencies, other than counties or a city and county, may purchase no more than 10 percent of the outstanding commercial paper of any single issuer.*

[H] *Issuing corporation must be organized and operating within the U.S., have assets in excess of $500 million, and debt other than commercial paper must be in a rating category of "A" or its equivalent or higher by a nationally recognized statistical rating organization, or the issuing corporation must be organized within the U.S. as a special purpose corporation, trust, or LLC, has program wide credit enhancements, and has commercial paper that is rated "A-1" or higher, or the equivalent, by a nationally recognized statistical rating agency.*

[I] *"Other Agencies" are counties, a city and county, or other local agency "that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body." Local agencies that pool exclusively with other local agencies that have the same governing body must adhere to the limits set for "Select Agencies," above.*

[J] *No more than 30 percent of the agency's money may be in negotiable certificates of deposit that are authorized under Section 53601(i).*

[K] *No more than 30 percent of the agency's money may be invested in deposits, including certificates of deposit, through a placement service (excludes negotiable certificates of deposit authorized under Section 53601(i)).*

[L] *Reverse repurchase agreements or securities lending agreements may exceed the 92-day term if the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity dates of the same security.*

[M] *Reverse repurchase agreements must be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state chartered bank that has a significant relationship with the local agency. The local agency must have held the securities used for the agreements for at least 30 days.*

[N] *"Medium-term notes" are defined in Section 53601 as "all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States"*

[O] *No more than 10 percent invested in any one mutual fund. This limitation does not apply to money market mutual funds.*

[P] *A mutual fund must receive the highest ranking by not less than two nationally recognized rating agencies or the fund must retain an investment advisor who is registered with the SEC (or exempt from registration), has assets under management in excess of $500 million, and has at least five years experience investing in instruments authorized by Sections 53601 and 53635.*

[Q] *A money market mutual fund must receive the highest ranking by not less than two nationally recognized statistical rating organizations or retain an investment advisor registered with the SEC or exempt from registration and who has not less than five years experience investing in money market instruments with assets under management in excess of $500 million.*

[R] *Issuer must be rated in a rating category of "A" or its equivalent or better as provided by a nationally recognized statistical rating organization.*

[S] *A joint powers authority pool must retain an investment advisor who is registered with the SEC (or exempt from registration), has assets under management in excess of $500 million, and has at least five years experience investing in instruments authorized by Section 53601, subdivisions (a) to (o).*

[T] *Local entities can deposit between $200 million and $10 billion into the Voluntary Investment Program Fund, upon approval by their governing bodies. Deposits in the fund will be invested in the Pooled Money Investment Account.*

[U] *Only those obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development (IBRD), International Finance Corporation (IFC), and Inter-American Development Bank (IADB).*

expressly prohibited by State law, unregistered securities, such as Rule 144A securities, may not be purchased by local agencies because local agencies do not meet the Securities and Exchange Commission definition of Qualified Institutional Buyers (QIB).[3]

[3] *CDIAC's "Issue Brief: Rule 144A Securities" provides a summary of securities in this class: www.treasurer.ca.gov/cdiac/issuebriefs/201307.pdf.*

II. B What requirements must a financial institution satisfy before a local agency may deposit its money in it? [Section 53635.2]

Section 53635.2 states that all local agency money may be invested in investments set forth in 53601 or deposited for safekeeping in state or national banks, savings associations, federal associations, credit unions, or federally insured industrial loan companies in this State. It also specifies certain requirements that such financial institutions must satisfy to hold local agency money.

MINIMUM LEGAL REQUIREMENT:

To be eligible to receive local agency money, a financial institution must receive an overall rating of not less than "satisfactory" from the appropriate federal supervisory agency for meeting the criteria specified in Section 2906 of Title 12 of the U.S. Code (Community Reinvestment Act of 1977). The Community Reinvestment Act of 1977 (Act) requires financial institutions to demonstrate their commitment to meeting the credit needs of local communities in which they are chartered to do business. For the purpose of the Act, the appropriate federal supervisory agency includes:

- The Comptroller of the Currency with respect to national banks;
- The Board of Governors of the Federal Reserve System with respect to state chartered banks that are members of the Federal Reserve system and bank holding companies;
- The Federal Deposit Insurance Corporation (FDIC) with respect to state chartered banks and savings banks that are not members of the Federal Reserve system and the deposits of which are insured by the FDIC; and
- The Director of Office of Thrift Supervision with respect to savings associations (the deposits of which are insured by the FDIC) and savings holding companies.

CONSENSUS RECOMMENDATION:

A local agency should contact the appropriate federal supervisory agency to determine if its financial institution meets the overall rating requirement.

Local agencies should be aware that in some instances ratings from federal supervisory agencies may not be current, as financial institutions are evaluated only every year or two. Additional inquiry may be necessary to obtain updated information if the last published rating is more than one year old.

II. C When must the composition and credit rating of investments contained in a local agency investment portfolio be in compliance with state law? [Section 53601]

California Government Code provides a description of the types of instruments permissible for local agency investment and specifies the timing of compliance with state law. Questions arise concerning the timing of any test of compliance with these requirements.

MINIMUM LEGAL REQUIREMENT:

Where Section 53601specifies a percentage restriction on a certain category of investment, this share of the investment portfolio must be in compliance with state law at the time that investment is purchased. The law does not specify that the *entire* portfolio must be in compliance when new instruments are purchased. It also does not require "rebalancing" when subsequent maturities, sales, withdrawals, or similar non-purchase activities result in the remaining portfolio having one or more of the categories of investment rise above the percentage restrictions applicable at the time of purchase.

CONSENSUS RECOMMENDATION:

The portfolio must be in compliance with statute at the time that the investment is purchased. It is recommended that the portfolio be monitored, as practical, for subsequent changes in percentages resulting from non-purchase activity or changes in credit rating of existing securities.

In the event the portfolio or individual investments are deemed to be out of compliance with either statute or the investment policy, the local agency should have procedural guidelines in place that outline actions to take under various scenarios. Due to its fiduciary responsibility, early communication with and involvement of the legislative body concerning a major or critical event is of utmost importance. Therefore, the procedural guidelines should identify circumstances under which communication and discussion of the treasurer's analysis and recommended course of action to the legislative body or oversight committee is warranted.

II. D Must bond proceeds be invested in the securities set forth in statute? [Section 53601(m)]

Section 53601(m) allows greater flexibility with respect to the types of investments that may be made with bond proceeds. Specifically, the law permits money from bond proceeds, obligations under a lease, installment sales, or other agreements of a local agency to be invested in any security that meets the statutory provisions governing the issuance of the bond or other agreements made by the issuing agency. In so doing, this section of the code recognizes that outstanding contracts between issuers and bond holders may not comply with the investment statutes and gives local agencies greater discretion in how to invest bond proceeds.

MINIMUM LEGAL REQUIREMENT:

Bond proceeds may be invested in accordance with statutes or they may be invested in alternative vehicles if authorized by bond documents.

CONSENSUS RECOMMENDATION:

The agency's investment policy should either require that bond proceeds be invested in accordance with statutes, reference applicable bond documents (such as, the indenture or rating agency requirements), or specify the types of investments authorized for bond proceeds. Bond proceeds may be invested in instruments with maturities longer than five years. Applying the 5-year maturity limitation found in statute may result in less yield.

II. E How does the Municipal Advisor (MA) Rule affect investment of bond proceeds?

As a part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) (Dodd-Frank Act), the Securities and Exchange Commission (SEC) enacted regulations addressing the apparent conflict of interest between municipal bond underwriters providing both underwriting and advice on the investment of bond proceeds for the same debt issue. These regulations were incorporated in the Municipal Advisor Rule (MA Rule). The MA Rule states that broker-dealers providing advice to government clients have a fiduciary duty to their clients and must be registered as a municipal advisor. In order to avoid becoming a fiduciary to municipal issuers, many broker-dealers, who have a significant municipal underwriting business, have adopted policies prohibiting brokers from providing investment advice. The MA Rule provides specific exemptions to public agencies seeking to receive investment advice

from broker-dealers, including receiving advice through a request for proposal (RFP) process or by entering into a formal relationship with an independent registered municipal advisor for advice.

MINIMUM LEGAL REQUIREMENT:

The MA Rule places no legal obligations on public agencies. The regulations address only the responsibilities of broker-dealers with respect to the bond proceeds.

CONSENSUS RECOMMENDATION:

Although the MA Rule does not specifically regulate the investment of bond proceeds by a local agency, it has materially affected the investment processes of many agencies. For example, treasury staff may have to adopt procedures, including the use of a mini-RFP, that would exempt their brokers-dealer from being defined as a fiduciary. Local agency treasury staff should understand the MA Rule and its exemptions; have knowledge of the limitations of their broker-dealer firms as a result of the MA Rule; and address the MA Rule by adopting a policy regarding the investment of bond proceeds. The SEC and the Government Finance Officers Association (GFOA) offer more information.[4]

[4] *Information on the MA Rule can be found at the SEC and GFOA websites: **www.sec.gov/info/municipal/mun-advisors-faqs.pdf** and **www.gfoa.org/gfoa-issue-brief-sec-municipal-advisor-rule***

II. F Are all U.S. Agency bonds legal investments for California local agencies? [Sections 53601(f) and 53601.6]

There has been a lot of discussion about the risk profile of certain products and derivatives issued by U.S. Agencies and U.S. government sponsored enterprises (GSEs). These Agencies and GSEs issue both traditional fixed-income securities (notes and bonds) as well as more complex, structured products including customized mortgage- and asset-backed securities and derivatives. The State's investment laws, however, place no restrictions on these types of investments other than the prohibitions against inverse floaters, range notes, interest-only strips derived from mortgage pools, and securities that could result in zero-interest accrual if held to maturity.

In recent years, some GSE debt has been privatized and is now structured like corporate debt yet still falls under the limits of 53601(f) and 53601.6. The most commonly traded GSE debt includes that from the Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB), Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae) and Federal Agricultural Mortgage Corporation (Farmer Mac). Other less common GSEs include Government National Mortgage Association (Ginnie Mae), Community Development Corporation (CDC),

Student Loan Marketing Association (Sallie Mae)[5], Small Business Administration (SBA), Overseas Private Investment Corporation (OPIC), and Tennessee Valley Authority (TVA).

MINIMUM LEGAL REQUIREMENT:

Obligations, including bonds, notes, certificates of participation, or other instruments issued as U.S. Agencies or GSE debt are permissible investments under Section 53601(f). These investments are, however, subject to the prohibition against inverse floaters, range notes, interest-only strips derived from a pool of mortgages, and securities that could result in zero-interest accrual in Section 53601.6.

CONSENSUS RECOMMENDATION:

Local agencies should institute restrictions that recognize the different characteristics and risk profile of the variety of U.S. Agency and GSE debt instruments. Factors such as the repayment pledge, size of the issue, prominence of the issuer in the market, and the complexity of the issue (such as call features, timing of interest and principal payments, or other options) will impact the risk profile and, thus, the balance of safety, liquidity, and yield in a local agency's portfolio. With SBA loans or pools, for example, the principal and interest may be guaranteed by the U.S. Government, but the prepayment or premium risk can be substantial. Investments in these types of products should only be entered into with a clear awareness, by both the legislative body and treasurer, of the risks involved and only if the local agency's staff have sufficient expertise and resources to manage such investments.

[5] *SLMA (Sallie Mae) terminated its ties to the federal government in 2004; bonds issued prior to 2005 are GSE debt; bonds issued in 2005 and after are corporate debt issued by the SLM Corporation.*

II. G What are supranationals? [Section 53601 (q)]

A supranational organization is formed by a group of countries through an international treaty with specific objectives such as promoting economic development. Supranational organizations also issue debt in the United States. The most commonly recognized supranational debt is issued by the International Bank for Reconstruction and Development (IBRD or World Bank).

Section 53601 (q) allows local agencies to invest in bonds issued by one of three supranationals: World Bank, International Finance Corporation (IFC) and Inter-American Development Bank (IADB), which were established by international treaties, incorporated into U.S. Federal law by Congressional Acts and headquartered in Washington, D.C. Currently, these entities carry the highest credit ratings (AAA) based on their financial structure, policies, performance and capi-

tal support from shareholders. Securities issued by these supranationals include benchmark bonds, global bonds, structured notes, plain fixed and floating rate notes, discount notes as well as green bonds

MINIMUM LEGAL REQUIREMENT:

In order for local agencies to invest in bonds issued by supranationals, the bonds must meet the following criteria:

- Maturity of five years or less
- Eligible for purchase and sale within the US
- In a rating category of "AA" or its equivalent or better by a nationally recognized statistical rating orginization (NRSRO)
- Cannot exceed 30 percent of the agency's investment portfolio

II. H Can a local agency invest in an investment pool administered by another state? [Section 53601 (d)]

Section 53601 is prescriptive of the types of investments permissible for local agency investment. It specifies, among other things, the issuer of the security, the type of obligation and the maturity of the security.

MINIMUM LEGAL REQUIREMENT:

Section 53601 (d) allows local agencies to invest in the debt of another state or department, board, agency or authority and 53601(p) allows joint powers authorities (JPA) established pursuant to Section 6509.7 to invest in securities and obligations authorized under 53601 (a)-(q) as long as each member of the JPA has an equal proportional interest in the purchased securities. Furthermore, members of the JPA may include public agencies outside of California. However, local agencies are not permitted to invest in an investment pool administered by another state.

CONSENSUS RECOMMENDATION:

Local agency permissible investments do not include investment pools administered by another state as an investment option.

II. I What are "medium-term notes?" [Section 53601(k)]

Until recently, the statutes defined medium-term notes as those instruments meeting certain term-length and quality requirements. Amendments to Section 53601(k) have attempted to clarify some of the ambiguity surrounding this definition. A variety of reasons account for this past confusion. One is that the SEC treats "corporate notes" slightly differently than "medium-term notes." Another is that brokers often refer to corporate obligations that have an original term to maturity longer than five years as corporate rather than medium-term notes, even though the remaining term to maturity for these notes may be less than five years.

MINIMUM LEGAL REQUIREMENT:

Section 53601(k) defines medium-term notes as "all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating in the United States." Therefore, investments in any corporate or depository institution debt securities that mature within five years from the time of purchase are legal as long as they meet the minimum quality standards. Moreover, the statute specifies that local agencies may not classify investments as medium-term notes if they satisfy the definition of other allowable investments authorized under state law. For example, a local agency could not consider a security that satisfies the definition of commercial paper as a medium-term note in its portfolio.

CONSENSUS RECOMMENDATION:

With many companies and depository institutions operating worldwide, the interpretation of the phrases "organized and operating in the United States" and "licensed by the United States or any state" comes into question. The terms organized, operating, and licensed are not specifically defined by statutes nor are they legal terms that hold specific meaning. For the purpose of applying Section 53601(k), the following interpretations, based upon usage and context, are offered as guidance to local agencies.

- Organized - An entity organized as a corporation in the United States.
- Operating - Engaged in business activities for which it was organized and maintaining a functioning office (other than a representative office).
- Licensed - Permitted by the appropriate regulatory agency to operate and conduct business in the United States (federal license) or a specific state (state license).

Given that even the above interpretations do not provide certainty, local agencies should establish a method of determining whether a purchase of medium-term notes meets the requirements of Section 53601(k) in consultation with their legal counsel. The following provides additional general guidance and recommendations to consider:

- If an issuing entity is incorporated in the U.S., but is a subsidiary of a foreign-owned parent company the stability of either the parent company or the economy of the country of the parent company should be considered when purchasing debt issued by these types of entities.
- Alternately, a local agency may hold securities in a U.S. company that is subsequently purchased by or merges with a foreign company (for example, the InBev merger with Anheuser Busch in 2008). The local agency should monitor the merger or purchase to determine if it remains a prudent security for the agency to hold.
- Identifying the venue for any legal recourse in the event of a bankruptcy or credit event would assist the local agency in determining whether the organization is organized and operating in the U.S. If the security is backed by assets that are in the U.S., then the investor may attempt to attach a claim on them in a U.S. court in the event of a bankruptcy or default. If the security is not backed by assets, then the initial financing documents of the underlying security may provide a possible source to assist with determining the legal venue.

II. J What are the rules regarding the use of reverse repurchase agreements and securities lending agreements? [Section 53601(j)]

The intent of Section 53601(j) is to limit the imprudent use of reverse repurchase agreements (reverse repos) and securities lending agreements. In 1995, the Legislature, concerned about the use of reverse repurchase agreements for enhancing yield, imposed a number of restrictions on local governments.

MINIMUM LEGAL REQUIREMENTS:

Section 53601(j) imposes the following restrictions on reverse repos:

- Reverse repos cannot constitute more than 20 percent of the "market value" of an agency's portfolio;[6]
- Reverse repos are limited to 92 days unless the minimum spread between the rate on investment and cost of funds is guaranteed in writing; and
- Securities used to make reverse repos must be held for a minimum of *30* days prior to the transaction.

Section 53601(j) also applies the above restrictions to securities lending agreements with the exception that a local agency portfolio may not hold more than 20 percent of its base value in reverse repos and securities lending agreements combined.

CONSENSUS RECOMMENDATION:

Both reverse repurchase agreements and securities lending agreements may be used to take advantage of certain short-term opportunities to increase yield and mitigate cash flow shortages. They should be entered into only when there is a clear understanding by both the legislative body and treasurer of the risks inherent in this type of lending design. The agency's staff must have sufficient expertise in the arrangement and management of these transactions.[7]

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[6] *For reverse repos purchased under Section 53601, the calculation is based upon the "base value" of the agency's portfolio, which is defined as the dollar amount obtained by totaling all cash balances in the portfolio from all sources, excluding any amounts from reverse repos or similar borrowing methods.*

[7] *Please see the CDIAC publication titled "**Securities Lending Agreements**" May 2005 for a detailed discussion of these types of transactions.*

II. K What are the rules regarding the use of mutual funds and money market funds? [Sections 53601(l) And 53601.6(b)]

Local agencies have the authority to invest in shares of mutual funds as described in Section 53601 (l) and 53601.6 (b) and in money market mutual funds as specified in the federal Investment Company Act of 1940. The permissible investments and strategies of the mutual fund or money market fund should be reviewed to determine whether or not they adhere to the parameters contained in both federal and state law.

MINIMUM LEGAL REQUIREMENT:

Local agencies can invest in shares of mutual funds that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, of Section 53601 and that comply with the investment restrictions of Section 53630. Local agencies can also invest in shares of mutual funds that are defined as money market mutual funds that follow regulations specified by the SEC under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, et seq.). The purchase price of shares shall not include any commission that the fund manager may charge and shall not exceed 20 percent of the agency's funds that may be invested pursuant to this Section 53601.

In addition, no more than 10 percent of the agency's funds may be invested in shares of any single mutual fund.[8] Both mutual and money market mutual funds require that they have attained the highest ranking or the highest letter

and numerical rating provided by not less than two NRSROs.[9] In addition they have retained an investment advisor registered or exempt from registration with the SEC with not less than five years' experience managing their specific category of fund and have assets under management in excess of $500,000,000.

CONSENSUS RECOMMENDATION:

The investment policy should specify criteria for selection of both mutual funds and money market funds by the investment official. Local agencies should review the permissible investments and strategies of the mutual fund or money market fund to determine whether or not they adhere to both federal and State law.

[8] *Mutual fund as defined in Government Code Section 53601(1)(1)*

[9] *Nationally Recognized Statistical Rating Organization*

FIGURE 2

GOVERNMENT CODE REQUIREMENTS FOR LOCAL AGENCY INVESTMENT IN MONEY MARKET AND MUTUAL FUNDS

CONDITIONS ALLOWING FOR INVESTMENT	MONEY MARKET FUNDS	MUTUAL FUNDS
I. Must receive the highest ranking or the highest letter and numerical rating by no less than two nationally recognized rating services;	●	●
—or—		
Must retain an investment advisor who is registered or exempt from registration with the SEC and has at least five years experience investing in specified securities and managing assets in excess of $500 million.[A]	●	●
II. Must abide by the same investment restrictions and regulations that apply to public agencies in California [Section 53601(a-k, m-o)].		●
III. Must follow regulations specified by the SEC under the investment company act of 1940 (15 U.S.C. Section 80a-1, et seq.).	●	

[A] *The requirement for mutual funds is an investment advisor with experience investing in securities and obligations authorized in Sections 53601 and 53635. For money market funds, the advisor must have experience in managing the types of investments that can be purchased by money market funds as specified in SEC Regulation 2a-7.*

II. L What are the rules affecting the investment of tax and revenue anticipation note (TRAN) and grant anticipation note (GAN) proceeds? [Sections 53821.5, 53841.5, 53852.5 and 53859.02(b)]

Existing statutes prevent agencies from using the proceeds of their temporary borrowing, specifically TRANs and GANs, to purchase long-term securities in order to achieve higher investment yields in a manner which could limit liquidity needed to ensure sufficient cash to repay the temporary borrowing when due.

MINIMUM LEGAL REQUIREMENT:

Government Code Sections 53821.5, 53841.5, 53852.5 and 53859.02(b) prohibit the investment of the proceeds of temporary borrowing in securities that have terms exceeding those of the temporary borrowing itself. In other words, proceeds from a temporary borrowing due June 20 may not be invested in securities that mature after June 20. The minimum legal requirements are clear for securities that have an identifiable term to maturity. However, the law is ambiguous when an agency invests the proceeds of temporary borrowing in items that do not have a specific maturity date, such as investments in county pools or other funds that may have an average maturity that is longer than the temporary borrowing.

CONSENSUS RECOMMENDATION:

The proceeds of temporary borrowing can be placed in investments that have no specific term to maturity so long as the proceeds can be removed within the term of the temporary borrowing without a penalty. Therefore, cash equivalent shares in liquid funds such as LAIF or county pools—where an agency has relatively quick access to its deposits—are legitimate investments for the proceeds of temporary borrowing, as long as withdrawals in amounts sufficient to repay the temporary borrowing when due are not restricted or penalized.

II. M What is an appropriate safekeeping arrangement for securities? [Sections 53601 and 53608]

Sections 53601 and 53608 address the appropriate safekeeping arrangements for securities. While a third party institution is the standard used in safekeeping arrangements, securities may be held by the same firm from which they were purchased as long as the securities for safekeeping are in the name of or under the control of the local agency and kept in a legally separate trust department.

MINIMUM LEGAL REQUIREMENT:

Section 53601 specifically allows local agencies to use a counterparty bank's trust department or separate safekeeping department for the physical delivery of a security if the security is held in the name of the local agency. Section 53608 authorizes general safekeeping arrangements that allows local agencies to use for deposit for safekeeping a federal or state association (as defined by Section 5102 of the Financial Code), a trust company or a state or national bank located within this state or with the Federal Reserve Bank of San Francisco or any branch thereof within this State, or with any Federal Reserve bank or with any state or national bank located in any city designated as a reserve city by the Board of Governors of the Federal Reserve System, the bonds, notes, bills, debentures, obligations, certificates of indebtedness, warrants, or other evidences of indebtedness in which the money of the local agency is invested pursuant to this article or pursuant to other legislative authority. The local agency shall take from such financial institution a receipt for securities so deposited.

CONSENSUS RECOMMENDATION:

Industry standard is to set up a third-party (an institution other than the party that sold the agency the investment) safekeeping agreement. In order for the securities to be held by the same institution that sold the security, they must be kept in a separate area of the institution such as its trust department. The security must be in the local agency's name or "perfected" by transferring the security through a signed agreement that contains a description of the security.

II. N How does the Municipal Advisor (MA) Rule affect a local agency's relationship with an investment advisor? [Section 53600.3]

The MA Rule states that broker-dealers providing advice to government clients on the investment of bond proceeds have a fiduciary duty to their clients and must be registered as a municipal advisor. In order to avoid becoming a fiduciary to municipal issuers, many broker-dealers, who have a significant municipal underwriting business, have adopted policies prohibiting brokers from providing investment advice. The MA Rule provides specific exemptions to public agencies seeking to receive investment advice from broker-dealers, including receiving advice through a request for proposal (RFP) process or by entering into a formal relationship with another independent registered municipal advisor who provides investment advice.

MINIMUM LEGAL REQUIREMENT:

The MA Rule places no legal obligations on public agencies. The regulations address only the responsibility of broker-dealers with respect to bond proceeds.

It is important to note that a local agency's fiduciary responsibilities cannot be delegated regardless of the fiduciary standards imposed on other members of the

municipal market. Section 53600.3 provides that a finance officer or treasurer can delegate duties to an external investment manager via a principal-agent relationship, but they cannot delegate fiduciary responsibility.

CONSENSUS RECOMMENDATION:

Local agencies rely on municipal advisors to help make decisions about issuing municipal securities and investing bond proceeds. Registered investment advisors hold a fiduciary responsibility to their clients by virtue of their registration with the SEC under the Investment Advisor Act of 1940. Nonetheless, the fiduciary responsibility that ultimately rests with the legislative body and the treasurer cannot be wholly delegated to an external investment manager.

Under the MA Rule, when an investment adviser consents to act in the capacity of an Independent Registered Municipal Advisor (IRMA), the local agency is able to exchange information with broker-dealers that do not have a fiduciary duty to the agency. When a local agency retains an IRMA, it agrees to consult the IRMA when considering information provided by broker-dealers. Further, when a local agency has an IRMA they should communicate that information to the market. Local agencies should ensure that the professionals they use are registered with the SEC and MSRB by checking the MSRB's Municipal Advisor Registration webpage.

II. O What are the rules regarding the payment of interest earned on non-general fund deposits to an agency's general fund? [Section 53647]

Many local agencies have the opportunity to earn interest on funds held in governmental accounts other than the general fund.

MINIMUM LEGAL REQUIREMENT:

Section 53647 provides that interest earned on a local agency's deposits shall be paid quarterly to the general fund of the agency unless otherwise directed by law. Alternatively, if directed by the governing body of the local agency, interest shall be paid to the fund containing the principle upon which the interest accrued.

CONSENSUS RECOMMENDATION:

Although all interest earned on its deposits should be paid to the agency's general fund on a quarterly basis, the governing body may direct that the interest be allocated to the fund in which the interest earning principle was deposited. It is important to note that other directives provided in law or contract for the payment of interest to a specific fund (e.g., funds held by a trustee) are overriding exceptions.

II. P How long should a local agency retain trade ticket information?

Pursuant to SEC's Rules 17a-3 and 17a-4 detailing the record-keeping requirements for broker-dealers, trade blotters or records of sales and purchases are required to be retained for six years. Trade confirmations, on the other hand, are required to be kept for three years. Given that there is no specific State requirement requiring a period of time that trade ticket information should be retained, local agencies may consider adopting such guidelines.

MINIMUM LEGAL REQUIREMENT:

There are no existing legal requirements pertaining to the retention of trade tickets.

CONSENSUS RECOMMENDATION:

Trade ticket information includes the price, yield, CUSIP reference number of the security as well as net money including principal, accrued interest, and total money. It also identifies the broker-dealer with whom the trade was done. It is important to retain trade ticket information for several reasons, most importantly for compliance and audit reasons. In addition, if there are any questions regarding a particular trade, it would be beneficial to have documentation. To be prudent, trade tickets should be kept for at least six years. Local agencies should consider adopting their own agency guidelines for retention of financial records, including trade ticket information.

Chapter III. Reporting Requirements

Reporting requirements and recommendations are imposed on local agencies in Sections 53646 and 53607.

Section 53646 states that the treasurer or chief fiscal officer of a local agency may file reports on the status of their investment portfolios with their respective legislative body, internal auditor, and chief executive officer. These reports generally are intended to provide the legislative body the ability to meet its fiduciary obligations as a trustee and to increase the disclosure of the agency's investment activities to those outside the agency. Section 53646 states that if the quarterly investment portfolio report is submitted, it must contain, among other things, a listing of investments, fund balances, activity, and return on investments made by the local agency. Quarterly reports should reflect the current positions and past performance of a portfolio of investments for the period of time under consideration.

Section 53646(e) states that for local agency funds that have been placed in a county investment pool, LAIF, FDIC insured bank deposits, National Credit Union Shared Insurance Fund-insured accounts in a credit union, accounts insured or guaranteed pursuant to California Financial Code Section 14858, or some combination of the above, the treasurer may substitute the most recent account statement received from those entities in lieu of the information on these investments that is otherwise required by this section. Section 53646(f) states that securities, investments, or monies held by a school district or county office of education in individual accounts that are less than twenty-five thousand dollars ($25,000) may be excluded from the report.

Local agency treasurers to whom the authority to invest or reinvest funds or to sell or exchange securities has been delegated by the legislative body of a local agency are required by Section 53607 to submit a monthly report of transactions to the legislative body.

III. A What specific information regarding portfolio investments needs to be included in the report to the legislative body? [Section 53646(b)(1-4)]

Section 53646 specifically encourages treasurers to prepare the quarterly investment report to enable the legislative body to perform its fiduciary duty and provide full disclosure of the public entity's investment activities.

MINIMUM LEGAL REQUIREMENTS:

If the treasurer or chief fiscal officer of a local agency elects to submit or if the legislative body mandates the submission of a quarterly investment report to the legislative body pursuant to Section 53646, it must do so within 30 days after the end of the quarter and include the following information:

- Type of investment (i.e. U.S. Treasury security, commercial paper);[10]
- Issuer name;
- Date of maturity;
- Par amount;
- Dollar amount invested in all securities, and investments and monies held by the local agency;[11]
- A description of the funds, investments, and programs (including lending programs) managed by contracted parties (i.e. LAIF, investment pools, outside money managers, and securities lending agents);
- Current market value as of the date of the report of all funds held by the local agency and under the management of any outside party that is not also a local agency or LAIF and the source of the valuation;
- A statement of compliance with the investment policy or an explanation for non-compliance; and
- A statement of the local agency's ability to meet its pool's expenditure requirements for the next six months, as well as an explanation of why sufficient money will not be available if that is the case.

The legislative body of the local agency may elect to receive this report on a monthly basis. Furthermore, the legislative body may require the treasurer to provide additional information beyond that listed above.

[10] *Refer to CDIAC publication "**California Public Fund Investment Primer**" for definitions of investment types.*

[11] *"Dollar amount invested" is defined as cost, however, best practice uses amortized cost or book value. Confusion exists as to the meaning of the words "held by the local agency" found in Government Code Section 53646(b)(1). Several standards have been suggested to clarify this phrase, including "ownership", "control", "under direct management by", "possession", and "accountability for the funds". Each of these suggestions would lead to different determinations as to the specific funds required to be reported. The apparent intent of the Legislature in enacting this requirement was to provide for comprehensive disclosure of local agency investments.*

If the local agency's legislative body delegates, to the local agency's treasurer, its authority to invest or reinvest the agency's funds or sell or exchange the agency's securities, the treasurer shall make a monthly report of those transactions to the legislative body, pursuant to Section 53607. The delegation of authority may be made for a period of one year. The requirement to submit the transaction report lasts until the authority is revoked or expires.

CONSENSUS RECOMMENDATION:

Based upon the public benefits achieved by reporting, it is recommended that the treasurer or designated official provide the local agency's legislative body a quarterly investment report that provides a clear picture of the status of the current investment portfolio. The quarterly investment report should include the following:

1. A listing of individual securities held at the end of the reporting period by authorized investment category.
2. Average life and final maturity of all investments listed.
3. Coupon, discount or earnings rate.
4. Par value, amortized book value and market value.
5. Percentage of the portfolio represented by each investment category.
6. A description of the funds, investments, and programs (including lending programs) managed by contracted parties (i.e. LAIF, investment pools, outside money managers, and securities lending agents).
7. A statement of compliance with the investment policy or an explanation for non-compliance.
8. A statement of the local agency's ability to meet its pool's expenditure requirements for the next six months, as well as an explanation of why sufficient money will not be available if that is the case.

Local agency funds that have been placed in a county investment pool, LAIF, FDIC insured bank deposits, National Credit Union Shared Insurance Fund-insured accounts in a credit union, accounts insured or guaranteed pursuant to California Financial Code Section 14858, or some combination of the above, may substitute the most recent account statement received from those entities in lieu of the information recommended above.

In addition to the reporting requirement set forth by Section 53646, a local agency treasurer who has been delegated authority to invest or reinvest funds of the local agency by the legislative body under Section 53607 must submit a monthly report to the legislative body accounting for transactions made during the reporting period. This report is separate and distinct from the quarterly report submitted under Section 53646.

III. B Should the report include market value measures for individual securities? [Section 53646(b)(1)]

The market value of each security in a portfolio must be computed before determining the portfolio's overall market value.

MINIMUM LEGAL REQUIREMENT:

Section 53646(b)(1) states: "With respect to all securities held by the local agency, and under management of any outside party that is not also a local agency or the LAIF, the report shall also include a current market value as of the date of the report, and shall include the source of this same valuation."

CONSENSUS RECOMMENDATION:

The law is not clear whether "all" securities implies the market value of the overall portfolio or each security. The level of detail to be presented in the report depends on the portfolio activity and the audience. The report for internal treasury staff and the oversight committee should list the individual market value for each security. This approach gives a more complete picture of the health of a portfolio and brings individual investment performance to the attention of those responsible for compliance oversight. For the legislative body, the report should be a summary with aggregate market value listed and include a footnote stating that data on particular investments is available upon request.

HOW SHOULD THE MARKET VALUE OF THE PORTFOLIO BE DETERMINED?

In establishing market value of the portfolio as required by Section 53646(b)(1), the GFOA recommends that local entities obtain independent third party assessment of investments and risk from a reputable source.

The most common approach is to request pricing information from the agency's safekeeping service, custodial service, or trustee. Agencies may need to contract with pricing service companies for more complex securities. These companies specialize in giving the current market price for a broad range of securities.

An alternative way to determine the value of securities in a portfolio is to perform an in-house analysis by collecting information from different sources such as dealer quotes, online computer information, and certain publications that provide price estimates. These sources may not be as up-to-date or accurate as a pricing service, but they offer a relatively inexpensive method to make price estimates. Finally, to assess the value of securities where specific prices are not available, a treasurer can either tie the spread of a recent investment to a benchmark security that is easy to value or use a matrix pricing formula. A matrix pricing formula displays the prices of a variety of different

securities which are then used as a basis for approximating the value of the security in question.[12]

MINIMUM LEGAL REQUIREMENT:

Section 53646(b)(1) provides that the agency shall include the current market value as of the reporting period date and the source of the valuation.

CONSENSUS RECOMMENDATION:

To provide the most unbiased method of reporting current market values, the local agency should obtain an independent valuation of the portfolio from a reputable source, such as, a broker or other financial institution, custodial bank, available publications or other pricing services. The independent sources should not be a party to the transaction. For example, the broker that sold the security should not be used to provide the valuation. The agency should use the best sources of market price information available. Prices for securities are estimates that carry a certain degree of error regardless of the approach used and will fluctuate over time due to market conditions. It is imperative that local officials pay extra attention to estimates on complex, infrequently traded, or highly customized securities.

HOW FREQUENTLY SHOULD MARKET VALUE BE CHECKED?

MINIMUM LEGAL REQUIREMENT:

None. Government Code does not specify frequency of market valuation.

CONSENSUS RECOMMENDATION:

Frequency of market valuation will be dependent on the complexity of the securities in the portfolio and the frequency of trading. For infrequent or passive investors, market value should be "marked-to-market" quarterly at a minimum. For a more active portfolio, the industry standard is monthly.

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[12] *Matrix pricing formulas are commonly used for short-term securities that mature between 90 and 180 days.*

III. C Should an analysis of cash flows be prepared by the local agency in order to validate the six-month liquidity certification? [Section 53646]

A public agency is required to include a statement indicating that the projected cash flow is adequate to meet expected obligations over the next six months or provide an explanation as to why sufficient money may or may not be available.

MINIMUM LEGAL REQUIREMENT:

Section 53646(b)(3) addresses the requirement for the local agency to include a statement denoting the ability of the local agency to meet its pool's expenditure requirements for the next six months or provide an explanation as to why sufficient money may or may not be available. There are no other requirements for identifying cash flows and setting liquidity targets at the local agency.

Section 53646(c) requires the treasurer or chief fiscal officer to report whatever additional information or data may be required by the legislative body of the local agency.

CONSENSUS RECOMMENDATION:

An analysis of cash flows is not required. However, the treasurer should be prepared to discuss cash flow projections and methodology at the request of legislative or oversight bodies. This analysis may list basic projections—based on historical data, market sensitivity or other relevant information—that support the cash flow liquidity statement. There are no guarantees when it comes to predicting future obligations. A sound justification for the expenditure statement gives the finance officer added protection against decisions that originally looked good but turned out poorly because of unforeseen circumstances.

The nature of the analysis will vary greatly depending on the size, sophistication, and complexity of the local agency staff and portfolio. Best practices dictate that cash flow statements should be prepared on a regular basis. However, in some agencies it may not be practicable or necessary, for instance, for LAIF-only participants. An analysis of cash flows is the precursor to portfolio management and should be prepared and updated, as needed, at least for internal investment staff use.

Those who manage investment pools need to pay close attention to the needs and accuracy of the requests of participants to ensure accurate cash flow projections. Incomplete information about a pool's investors not only compromises the legitimacy of the six-month cash flow statement, but also adds substantially to the liquidity risk of the pool.

In the case of investment pools, all participants' cash flow needs must be taken into account in preparing the six month cash flow statement. The pool admin-

istrator or manager should keep close tabs on mandatory and voluntary pool participants' cash flows needs and establish clear criteria for the deposit and withdrawal of their funds. Also, the pool administrator or manager should obtain expected deposit/disbursement information from pool participants at the time of major fund deposits or updates of cash flow projections.

III. D What tools can be used to measure interest rate risk?

Interest rate risk, also known as market risk, is the risk that a security's value or price will decline as interest rates rise in the general market. Weighted average maturity (WAM) and duration are interest-rate risk measures that are commonly used in the investment industry. WAM measures the portfolio's "average life". Duration provides an approximate percentage change in the value of a security or portfolio for a given change in interest rates.[13] Some local agencies have inquired whether they should include this information in their report.

MINIMUM LEGAL REQUIREMENT:

Existing statutes do not require local agencies to report an interest rate risk measure in their portfolios. Section 16480.7 requires the State Treasurer to submit a quarterly report to the Pooled Money Investment Board that includes the weighted average maturity of the investments within the treasury.

CONSENSUS RECOMMENDATION:

Local agencies should consider including the WAM or duration (e.g. modified and/or effective duration) in the report.[14] Duration is the preferred method as it takes into account the present value of the portfolio and considers all of the cash flow receipts not just the last cash flow as in WAM. However, it generally requires the proper software (or access to a source for that information) that can perform the calculation and, thus, its usefulness compared to WAM would be dependent upon the needs and resources of the local agency.

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[13] *For further information regarding duration, please see CDIAC's publications* "California Public Fund Investment Primer" *and* "Duration Basics", *which can be found at* ***www.treasurer.ca.gov/cdiac***.

[14] Modified duration measures the percentage change in a security's price for each percentage change in interest rates. Effective duration further refines modified duration using an iterative estimation process and is typically used when securities have a call option feature.

Local agencies also should consider whether their investment policies should provide guidance on acceptable ranges or limits for the respective measure used. These figures trigger a number of valuable questions about the status of the portfolio for both internal and external purposes including liquidity, cash flow, and yield curve position (for example, how far out the portfolio is on the yield curve). An easy method for determining the WAM is to divide the sum of the days to maturity multiplied by the book value for each security by the total book value of the portfolio. Figure 3 shows an example of how WAM is calculated:

FIGURE 3

CALCULATION OF WEIGHTED AVERAGE MATURITY

PAR VALUE	SECURITY DESCRIPTION	DAYS TO MATURITY	BOOK VALUE	DAYS X BY BOOK VALUE
$1,350,000	Repurchase Agreements	1	$1,350,000	1,350,000
5,000,000	Local Agency Inv. Fund	1	5,000,000	5,000,000
5,000,000	Fed Natl. Mtg. Assn.	185	4,886,108	903,930,041
5,000,000	Fed Home Loan Bank	550	5,000,000	2,750,000,000
5,000,000	U.S. Treasury Note	720	4,985,156	3,589,312,500
5,000,000	Fed Natl. Mtg. Assn.	822	5,000,000	4,110,000,000
5,000,000	Fed Farm Credit Bank	910	4,988,941	4,539,936,255
TOTAL			$31,210,206	15,899,528,796

WAM — *[Summation (Days to Maturity Multiplied by Book Value of Each Investment)] / Total Book Value*
=15,899,528,796 / 31,210,206
=509 Days or 1.42 Years WAM

Duration is a more complex computation and requires the proper software to perform the specific calculations for each security and then for the entire portfolio. The following matrix is an example of a basic modified duration application.

FIGURE 4

DURATION—GAIN/LOSS OF MARKET VALUE MATRIX
FOR A $100,000,000 PORTFOLIO

		PORTFOLIO MODIFIED DURATION			
		1.2	2.7	5.0	6.0
RATE CHANGE	.25%	$300,000	$675,000	$1,250,000	$1,500,000
	.50%	600,000	1,350,000	2,500,000	3,000,000
	1.50%	1,800,000	4,050,000	7,500,000	9,000,000
	2.00%	2,400,000	5,400,000	10,000,000	12,000,000
	5.00%	$6,000,000	$13,500,000	$25,000,000	$30,000,000

Modified duration measures the approximate change in the market value of assets as a result of a change in market interest rates. Thus, for a portfolio with a market value of $100,000,000 and a duration of 1.2, as interest rates increase by 1.5 percent, the portfolio's market value would be expected to decrease by $1,800,000. Specifically:

$100,000,000 (portfolio size) x 1.2 (duration) x .015 (increase in interest rate) = $1,800,000 (decrease in portfolio market value)

Conversely, for the same portfolio, if interest rates were to decrease by say 2 percent, the portfolio's market value increases by approximately $2,400,000. Specifically:

$100,000,000 x 1.2 x .02 = $2,400,000 (increase in portfolio market value)

Securities or portfolios with higher duration carry more interest rate risk and have higher price volatility (i.e., sensitivity of the security's price to changes in market interest rates) than those with lower durations. For example, if the same $100,000,000 portfolio had a duration of 2.7, a 1.5 percent increase in market interest rates will produce a greater change in the portfolio's market value:

$100,000,000 x 2.7 x .015 = $4,050,000 (decrease in market value)

For a 2 percent decrease in interest rates:

$100,000,000 x 2.7 x .02 = $5,400,000 (increase in market value)

III. E What action should the legislative body take with the report? [Section 53646]

Section 53646(b) states that the "treasurer or chief fiscal officer may render a quarterly report to the chief executive officer, internal auditor, and the legislative body" within 30 days of the quarter's end. Questions arise as to whether the legislative body needs to discuss and approve the report during a regular meeting, have it placed on the consent calendar, or only receive a copy.

MINIMUM LEGAL REQUIREMENT

Section 53646(b) only states that the report may be rendered to the legislative body. It does not require the legislative body to take action on this report.

CONSENSUS RECOMMENDATION

If presented to the legislative body of the local agency, it should discuss the report as necessary and take action on the report in public session. The report could be listed as a consent calendar item or as a non-consent calendar item, depending on the preferences of the legislative body. Possible actions of the governing body on the report could include: receiving and filing the report, approving or disapproving the report (with or without amendments), or asking staff for further information/clarification. In addition, if presented to an investment oversight body, the oversight body should discuss the reports at their own meetings.

III. F How should agencies address difficulties in meeting the 30-day requirement for submitting quarterly investment reports to the legislative body? [Section 53646(b)]

It can be difficult for an agency to collect all the appropriate information for the report, have an oversight committee (if a jurisdiction has one) review or approve it, and present it to the legislative body within 30 days of the quarter's end. Various factors such as the length and diversity of the portfolio, size of staff, and type and availability of computer software can influence the amount of time it takes to compile a report.

MINIMUM LEGAL REQUIREMENT:

Section 53646(b) requires that if the quarterly investment report is submitted to the legislative body, it may be rendered within 30 days of the end of the quarter.

CONSENSUS RECOMMENDATION:

A report, as complete as possible, should be submitted within the allotted 30 days. If current values for certain investments are not available within the time frame to complete the report in a timely fashion, submit the report on time and indicate in the report the most recent valuation and its date and then submit updated values to the legislative body at the soonest possible date thereafter. It should be available for individual legislative body members to review within 30 days of quarter end. This may include providing a copy to each member, including it in agenda materials for a public meeting, or actually presenting the report at a public meeting of the legislative body.

Chapter IV. Treasury Oversight Committees

Section 27131 and 27132 through 27132.4 consider the formation, composition, and role of a county treasury oversight committee. These code sections provide that the function of the treasury oversight committee is to monitor and review the county investment policy by conducting or causing an annual audit and discussing its findings at a public meeting. The rationale behind the creation of an oversight committee is to give local agencies and private sector citizens a say in the policies governing the investment pool.

IV. A What options are available for structuring the county treasury oversight committee? [Sections 27131 and 27132 Through 27132.4]

The statutes governing the structure of county treasury oversight committees are meant to bring together a representative and knowledgeable committee while limiting conflicts of interest with the treasurer and the treasury functions subject to oversight. However the composition is subject to specific requirements that can make it difficult for local agencies to recruit and staff a committee. Specifically, the statutes prohibit individuals from employment with or securing employment within one year of serving on a county treasury oversight committee with underwriting, bond counsel or broker-dealer firms doing business with the county treasurer. Committee members are also prohibited from making individual political contributions to, or being employed by an entity that makes political contributions to, or from doing any fund raising on behalf of any candidate for office of the governing board of any agency that deposits funds in the county treasury in the previous three years.

MINIMUM REQUIREMENT:

Section 27131(a) states that the board of supervisors in any county that invests surplus money may establish a treasury oversight committee. If established, the committee must consist of three to eleven members, the exact number determined by the board of supervisors in consultation with the county treasurer. Members must be appointed from the following categories:

1. County treasurer.
2. County auditor, auditor-controller, or finance director as the case may be.
3. A representative appointed by the board of supervisors.
4. A representative selected by a majority of the presiding officers of the governing bodies of the school districts and community college districts in the county.
5. County superintendent of schools or his/her designee.
6. A representative selected by a majority of the presiding officers of the legislative bodies of the special districts that are required or authorized to deposit funds in the county treasury.

A majority of the public members of the committee shall have expertise in or an academic background in public finance. The other public members shall be economically diverse and bipartisan in political registration. Committee members cannot:

- Be employed by an entity that has contributed to the campaign of a candidate for the office of local treasurer;
- Be employed by an entity that has contributed to the campaign of a candidate for membership on a legislative body of any local agency that has deposited funds in the county treasury in the previous three years or during the period the employed person is a member of the committee;
- Directly or indirectly raise money for a candidate for local treasurer or a member of the governing board of any local agency that has deposited funds in the county treasury while a member of the committee; and
- Secure employment with, or be employed by, bond underwriters, bond counsel, security brokerages or dealers, or financial services firms, with whom the treasurer is doing business during the period that the person is a member of the committee or for one year after leaving the committee.

CONSENSUS RECOMMENDATION:

County legislative bodies should decide if an oversight committee is necessary and if they should have private sector individuals from the restricted firm types serve on the committee. If so, the county may choose one of three options to compose the committee (Figure 5).

If the committee is composed of public and private sector members (Option 1), the members, for their term of service and one year following, cannot work for firms doing business with the treasurer. As a way to obtain the participation of private sector professions employed by firms doing business with the treasurer, a county may create an advisory board of the county treasury oversight committee (Option 2). However, a county that chooses Option 2 and forms an advi-

FIGURE 5

APPROACHES TO ESTABLISHING THE COUNTY TREASURY OVERSIGHT COMMITTEE

VARIOUS OPTIONS AVAILABLE TO LOCAL GOVERNMENTS
1. A committee of both public and private sector members. 2. A committee of public sector officials that has an advisory board made up of private sector professionals and citizens. 3. A committee that only consists of individuals who work for agencies that have funds invested in the pool.

sory board whose membership criteria is less stringent than the criteria used to compose an oversight committee is advised to consult legal counsel. Finally, the county may establish an oversight committee composed exclusively of individuals unaffiliated with private sector firms doing business with the treasurer. The easiest way to do so is to draw members of the committee from the public agencies investing funds with the county treasurer (Option 3).

IV. B Does the appointment of the treasurer to the county treasury oversight committee create a conflict of interest? [Sections 27131 and 27132]

Since the oversight committee's central task is to oversee the treasurer's policies, some believe that allowing the treasurer to sit on the oversight committee represents a conflict of interest. Others claim that a treasurer who donates money to his/her own campaign cannot be on the county treasury oversight committee because the law bars those who contribute to the campaign of someone running for treasurer while serving on the committee from participation.

MINIMUM LEGAL REQUIREMENT:

None. Sections 27131 and 27132 do not specify whether or not the county treasurer should be a member of the oversight committee. Section 27132 specifically lists the county treasurer as a potential member of the county treasury oversight committee.

CONSENSUS RECOMMENDATION:

The question of whether or not a county treasurer should sit on the treasury oversight committee must be made by the county board of supervisors and the treasurer. Their answer should consider the advantages and disadvantages of having someone with the treasurer's influence and expertise sit on the committee and the future employment implications to the treasurer since any person who serves on a county treasury oversight committee is prohibited from seeking

employment with the financial services industry for one year after leaving the committee. It should not in any way hinge on whether a treasurer donated money to his or her own campaign. Contributing money to one's own campaign does not represent a legitimate conflict of interest in the context of the treasury oversight committee.

Specifying that the treasurer does not serve as the chair of the oversight committee is one approach to lessening the "conflict of interest" concern.

IV. C What is the role of the county treasury oversight committee? [Sections 27134 and 27137]

MINIMUM LEGAL REQUIREMENT:

Sections 27134 and 27137 limit the oversight committee's functions to monitoring and reviewing the county treasury's compliance with the investment policy and reporting provisions of the Government Code through an annual audit.

CONSENSUS RECOMMENDATION:

The statutes address concerns that individuals serving on the treasury oversight committees may try to micro-manage decisions that should be left to the treasurer. Considerations by the committee regarding the risk and structure of a portfolio are permitted in the law, however, any attempts to direct individual investment decisions, select individual investment advisors, brokers, or dealers, or impinge on the day-to-day operations of the county treasurer are discouraged. The local agency should clearly stipulate that the responsibilities of the treasury oversight committee are to focus on investment policy issues and to audit the portfolio for compliance with the policy.

IV. D Should other local agencies have treasury oversight committees?

It is not uncommon to find treasury oversight committees in cities and other local agencies even though the law does not require them to have such a committee. An important issue in the decision to establish a committee is the level of discretion accorded the agency treasurer in making investment decisions the more discretion, the greater the need for oversight procedures. However, even in situations where an agency has a great deal of discretion, some believe an oversight committee merely duplicates work that can be better performed by the governing board or auditors. Others support the view that an oversight committee provides valuable information to the investment staff and involves members of the com-

munity in an important government function. If other local agencies decide that they want to engage an oversight committee, its role with respect to reviewing investment policies and quarterly investment reports should be clearly specified.

MINIMUM LEGAL REQUIREMENT:

There are no legal requirements for local agencies to have oversight committees.

CONSENSUS RECOMMENDATION:

Local agencies that are not counties should consider if an oversight committee is appropriate based on its current oversight procedures, complexity of its portfolio, frequency with which it purchases securities, and skill level of its staff. The limitations and restrictions associated with membership on a county treasury oversight committee do not apply to committees formed by other local government entities.

California Government Code

CODE SECTION	TITLE DESCRIPTION
ACQUISITION OF BONDS	
5925	Repurchase investment
LOCAL AGENCY INVESTMENT FUND	
16340	Voluntary Investment Program Fund
16429.1	Creation, maintenance, and operation
16429.2	Local investment advisory board
16429.3	Deposits; prohibited transfers and loans; impoundment or seizure
16429.4	Right of withdrawal
COUNTY TREASURER - DUTIES GENERALLY	
27000	Custody and payment of moneys
27000.1	Investment of county funds; delegation and revocation of authority by board of supervisors; responsibility for transactions
27000.3	Prudent investor standard; use in transactions with public funds
27000.5	Objectives; managing public funds
27000.6	Effective date of specified provisions; candidate eligibility and continuing education programs; county ordinances; authority to repeal ordinances
27000.7	Eligibility for offices of county treasurer and tax collector; criteria; application of section
27000.8	County treasurers and tax collectors serving on January 1, 1996; service for remaining term; continuing education; certification; violation
27000.9	Continuing education; requirements beginning in 2000; certification; violation
27001	Certificates of auditor; filing; preservation
27002	Accounts of receipts and expenditures; requisites
27002.1	Photographic records of receipts and expenditures
27003	Separate accounts; general account

27005	Disbursements on warrants; checks or electronic funds transfers; exception
27006	Disbursements on warrants based on orders; payment of warrants
27007	Possession of money; special deposits
27008	Certificates of auditor necessary for receipt of money
27009	Receipt for deposit of moneys into county treasury
27010	Receipt of gifts and bequests
27011	Deposit of private money prohibited; penalty
27012	Conferences between controller and treasurers regarding administration of applicable law; expenses
27013	Administrative cost of investing, depositing or handling funds; reimbursement of county

COUNTY TREASURY OVERSIGHT COMMITTEES

27130	Legislative findings and declarations
27131	Establishment; determinations of size and membership
27132	Membership; pool of candidates
27132.1	Member employment by campaign contributors
27132.2	Member fundraising
27132.3	Member employment in financial services industry
27132.4	Open meetings; Ralph M. Brown Act
27133	Periodic investment policy; preparation by treasurer; committee review and oversight
27134	Periodic audits by committee; article compliance
27135	Costs of compliance; reimbursement
27136	Withdrawal of funds from county treasury pool; requests; evaluation; approval criteria
27137	Day-to-day operations and decisions; committee involvement

INVESTMENT OF SURPLUS

53600	Local agency
53600.3	Prudent investor standard; investments on behalf of local agencies
53600.5	Objectives; managing public funds
53600.6	Legislative findings and declarations; solvency and creditworthiness
53601	Local agencies; authorized investments
53601.1	Investment in financial futures or financial option contracts
53601.2	Limited liability corporation
53601.5	Investments; qualified purchase agent
53601.6	Prohibited investments
53601.8	Investment in placement service assisted deposits, including certificates of deposit

53602	Investment in legal investments for savings banks; securities of public districts
53603	Direct purchase of securities
53604	Sale or exchange of securities; reinvestment of proceeds
53605	Sale of securities; application of proceeds to original purposes
53606	Cancellation of bonds issued by purchaser; resale
53607	Delegation of duties to treasurer; monthly report
53608	Deposit of securities; receipt; delegation of authority
53609	Eligible securities for investment of funds held by local agency pursuant to deferred compensation plans
53610	Proposition 1A receivables; purchase by local agency

DEPOSIT OF FUNDS

16340	The Voluntary Investment Program Fund
53630	Definitions
53630.1	Legislative findings and declarations; solvency and creditworthiness
53630.5	Additional definitions
53631	Deposits to pay principal, interest or warrants of bonds; electronic funds disbursement
53632	Classes of deposits
53632.5	Classes of security for deposits
53633	Determination of amounts to be deposited in each class
53634	Transfers from inactive to active deposits
53635	Local agency investments; commercial paper; concentration limits
53635.2	Deposit of money belonging to or in custody of local agency
53635.7	Agency consideration when borrowing funds in excess of $100,000
53635.8	Investment in placement service assisted deposits, including certificates of deposit
53636	Deposited money as in treasury of local agency
53637	Selection of depositary; interest
53638	Maximum deposits
53639	Expense of transporting money
53640	Checks, drafts, and other exchange
53641	Receipt or other evidence of deposit
53642	Withdrawals; check or order
53643	Deposit by treasurer
53644	Withdrawals on demand; penalties; notice
53645	Interest; computation; payment
53646	Investment policy statement; review and approval; legislative body or oversight committee; reports

53647	Interest; payment into fund
53647.5	Interest on bail money on deposit
53648	Deposits and contracts pursuant to federal law or rule
53648.5	Termination of agreement with depository
53649	Contracts with depositories; contents; filing
53651	Eligible securities to be used as security for deposits
53651.2	Eligible security; promissory note
53651.4	Report of independent certified public accountant; depository using eligible securities; state bank; national bank; fee
53651.6	Letter of credit; terms
53652	Value required to secure active or inactive deposits; market value
53653	Waiver of security on federally insured deposits; interest
53654	Addition or substitution of securities; withdrawal or release of securities
53655	Perfection of security interest in favor of local agencies
53656	Authorization for holding of security by agent of depository; agents of depository; securities subject to order of depository; exception; release of security; conditions
53657	Authorization to act as agent of depository; application; form; fee; approval or denial
53658	Maintenance of separate pool for each depository; security interest of local agency
53659	Placement of securities with Federal Reserve or other approved bank; authority by contract
53660	Certification and report by agent of depository
53661	Administrator
53663	Determination of amounts to be deposited as inactive and active deposits
53664	Individual reports; privileged status
53665	Default by depository; payment by agent of depository; excess funds; drawing on letter of credit
53666	Liability of administrator
53667	Expenses of administrator; levy of assessment on depositories; payments; penalty
53669	Responsibility for money on deposit
53676	Treasurer's responsibility for securities
53678	Charges for handling and safekeeping of securities
53679	Money under control or coming into possession of officers and employees other than treasurer
53679.1	Accounting practices; declaration of existing law
53680	Money under control of tax collectors
53681	Deposit in other than prescribed manner; forfeiture of office
53682	Contracts for services by depository; requirements

53683	Consideration as costs applied pro rata against earned interest
53684	Local agencies; excess funds; investment by county treasurer
53686	Local agency fund audit reports

TEMPORARY BORROWING

53821.5	Tax and Revenue Anticipation Notes
53840	County Short-term Loans
53841	Limitations on short-term borrowing
53841.5	Tax and Revenue Anticipation Notes
53850	Local agency definition
53851	Local agency borrowing power
53852	Use of proceeds
53852.5	Tax and Revenue Anticipation Notes
53859	Definitions
53859.01	Local agency borrowing power
53859.02	Grant Anticipation Notes

Government Code Section 5925

5925

The purchase or other acquisition of bonds by or on behalf of the state or local government that issued the bonds does not cancel, extinguish, or otherwise affect the bonds and the bonds shall be treated as outstanding bonds for all purposes except to the extent otherwise determined by the issuer or otherwise provided in the constituent instruments defining the rights of the holders of the bonds.

Government Code Section 16340

16340

(a) (1) The Voluntary Investment Program Fund is hereby created within the State Treasury, for the receipt of voluntary deposits from local entities.

(2) For purposes of this section, a "local entity" includes, but is not limited to, any city, county, school district, or special district.

(b) Each local entity that is approved by its governance body to deposit moneys in the fund shall deposit no less than a total of two hundred million dollars ($200,000,000). The total amount of moneys that may be deposited in the fund from all eligible sources shall not exceed, at any point in time, a total of ten billion dollars ($10,000,000,000), or lesser amount as determined by the Director of Finance, in consultation with the Treasurer.

(c) The terms and conditions of deposits made into the fund shall be set by the Director of Finance, in consultation with the Treasurer. Those terms shall include, but not be limited to, the size of the deposit from a particular local entity, the length of time those moneys shall be held in deposit in the fund, the availability of funds for withdrawal by the local entity depositing the funds, and the annual rate of interest paid on deposits, as described in subdivision (e). However, the director and the Treasurer may only permit deposits that do not exceed funds needed to address an actual or anticipated cash shortfall in the General Fund not exceeding the amounts of existing appropriations, including continuing and continuous appropriations, to which resulting proceeds are to be applied.

(d) Moneys held in the Fund shall be invested by the Treasurer in investments authorized pursuant to Sections 16430 and 16480 through the Pooled Money Investment Account, and whenever the Controller determines that moneys in the General Fund, after allowing for internal borrowing from other funds are, or are expected to be, insufficient for the payment of all appropriations made by the Legislature which are to be paid out of the moneys in the General Fund, the State Controller may, based upon his or her estimate of the probable income to the General Fund during the then fiscal year and the probable dates of receipt thereof, may draw a demand or demands against appropriations made from the General Fund to be paid in the then current fiscal year prior to the receipt of the income, and deliver the demand or demands to the Treasurer. The Treasurer

shall register the demand or demands for nonpayment and may borrow moneys from the fund in an amount or amounts that is no greater than the demand or demands provided. The borrowing, together with the interest owed upon the account thereon, shall be paid exclusively from moneys in the General Fund on probable or reasonably anticipated revenues that are expected to be forthcoming within a short period of time, but not excepting recourse to internal borrowing from other funds in the event insufficient moneys are available from the General Fund. Repayment of any of those borrowings shall be considered a priority payment, equivalent to any other loan repayment made from the General Fund to another state fund.

(e) Notwithstanding any other law, the rate of interest to be earned by the depositors shall be the base apportionment rate based on their pro rata share of the earnings of the Pooled Money Investment Account on a quarterly basis at the end of each quarter plus an enhanced amount. The pro rata share shall be determined by a dollar day participation. The base apportionment rate applied to dollar day participation in the fund shall be the quarter-to-date average yield of the Pooled Money Investment Account for the current quarter. The enhancement amount paid to depositors in the fund shall be determined by the Director of Finance, in consultation with the Treasurer, and shall be added to the base rate earned by the Pooled Money Investment Account at the time the apportionment is made. The total interest cost described in this subdivision shall not exceed that provided for in paragraph (1) of subdivision (d) of Section 16731.

(f) Notwithstanding Section 13340, moneys in the fund are hereby continuously appropriated for payment of interest expenditures to depositors calculated in accordance with subdivision (e), other related expenses as determined by the Department of Finance, and return of deposits to depositors according to terms and conditions set by the Director of Finance, in consultation with the Treasurer. The amounts paid for interest and other related expenses shall be attributable to the fiscal year in which the borrowing occurred which is also the fiscal year upon which the appropriations against which the demand or demands were made.

(g) The Department of Finance shall determine the budget items to be used for the recording and reporting of interest expenditures and other related expenses pursuant to this section.

(h) Deposits in the fund shall be tracked separately for each participant in the state's accounting system, and shall be deemed to be assets of each participant. These assets shall be reflected as such on each participant's individual financial statements.

(i) These deposits are, and may only be used, to cover short-term cash needs of the state and are, and shall be, in compliance with the provisions of Proposition 58 of March 2004 as stated in subdivision (c), Section 1.3 of Article XVI of the California Constitution. Deposits and borrowing from the fund shall comply with the state's debt limit restrictions.

(j) Actions by the Director of Finance, in consultation with the Treasurer, in implementing and administering the investment program provided for in this

section and the Treasurer's and Controller's actions in borrowing from the fund shall be exempt from the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3).

(k) Upon projection of insufficient cash in the General Fund, the Director of Finance, in consultation with the Treasurer and Controller, may utilize provisions similar to Section 16381 to facilitate the implementation of the program.

Government Code Section 16429.1-16429.4

16429.1

(a) There is in trust in the custody of the Treasurer the Local Agency Investment Fund, which fund is hereby created. The Controller shall maintain a separate account for each governmental unit having deposits in this fund.

(b) Notwithstanding any other provisions of law, a local governmental official, with the consent of the governing body of that agency, having money in its treasury not required for immediate needs, may remit the money to the Treasurer for deposit in the Local Agency Investment Fund for the purpose of investment.

(c) Notwithstanding any other provisions of law, an officer of any nonprofit corporation whose membership is confined to public agencies or public officials, or an officer of a qualified quasi-governmental agency, with the consent of the governing body of that agency, having money in its treasury not required for immediate needs, may remit the money to the Treasurer for deposit in the Local Agency Investment Fund for the purpose of investment.

(d) Notwithstanding any other provision of law or of this section, a local agency, with the approval of its governing body, may deposit in the Local Agency Investment Fund proceeds of the issuance of bonds, notes, certificates of participation, or other evidences of indebtedness of the agency pending expenditure of the proceeds for the authorized purpose of their issuance. In connection with these deposits of proceeds, the Local Agency Investment Fund is authorized to receive and disburse moneys, and to provide information, directly with or to an authorized officer of a trustee or fiscal agent engaged by the local agency, the Local Agency Investment Fund is authorized to hold investments in the name and for the account of that trustee or fiscal agent, and the Controller shall maintain a separate account for each deposit of proceeds.

(e) The local governmental unit, the nonprofit corporation, or the quasi-governmental agency has the exclusive determination of the length of time its money will be on deposit with the Treasurer.

(f) The trustee or fiscal agent of the local governmental unit has the exclusive determination of the length of time proceeds from the issuance of bonds will be on deposit with the Treasurer.

(g) The Local Investment Advisory Board shall determine those quasi-governmental agencies which qualify to participate in the Local Agency Investment Fund.

(h) The Treasurer may refuse to accept deposits into the fund if, in the judgment of the Treasurer, the deposit would adversely affect the state's portfolio.

(i) The Treasurer may invest the money of the fund in securities prescribed in Section 16430. The Treasurer may elect to have the money of the fund invested through the Surplus Money Investment Fund as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2.

(j) Money in the fund shall be invested to achieve the objective of the fund which is to realize the maximum return consistent with safe and prudent treasury management.

(k) All instruments of title of all investments of the fund shall remain in the Treasurer's vault or be held in safekeeping under control of the Treasurer in any federal reserve bank, or any branch thereof, or the Federal Home Loan Bank of San Francisco, with any trust company, or the trust department of any state or national bank.

(l) Immediately at the conclusion of each calendar quarter, all interest earned and other increment derived from investments shall be distributed by the Controller to the contributing governmental units or trustees or fiscal agents, nonprofit corporations, and quasi-governmental agencies in amounts directly proportionate to the respective amounts deposited in the Local Agency Investment Fund and the length of time the amounts remained therein. An amount equal to the reasonable costs incurred in carrying out the provisions of this section, not to exceed a maximum of 5 percent of the earnings of this fund and not to exceed the amount appropriated in the annual Budget Act for this function, shall be deducted from the earnings prior to distribution. The amount of this deduction shall be credited as reimbursements to the state agencies, including the Treasurer, the Controller, and the Department of Finance, having incurred costs in carrying out the provisions of this section.

(m) The Treasurer shall prepare for distribution a monthly report of investments made during the preceding month.

(n) As used in this section, "local agency," "local governmental unit," and "local governmental official" includes a campus or other unit and an official, respectively, of the California State University who deposits moneys in funds described in Sections 89721, 89722, and 89725 of the Education Code.

16429.2

There is created the Local Investment Advisory Board consisting of five members. The chairman shall be the State Treasurer or his or her designated representative. Two members who are qualified by training and experience in the field of investment or finance, shall be appointed by the State Treasurer. Two members who are treasurers, finance or fiscal officers or business managers, employed by any county, city or local district or municipal corporation of this state, shall be appointed by the Treasurer.

The term of office of each appointed member of the board is two years, but each appointed member serves at the pleasure of the appointing authority. A vacancy

in the appointed membership, occurring other than by expiration of term, shall be filled in the same manner as the original appointment, but for the unexpired term only.

Members of the board who are not state officers or employees shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the board, not to exceed three hundred dollars ($300) in any month. All members shall be entitled to reimbursement for expenses incurred in the performance of their duties under this part, including travel and other necessary expenses.

The board's primary purpose shall be to advise and assist the State Treasurer in formulating the investment and reinvestment of moneys in the Local Agency Investment Fund, and the acquisition, retention, management, and disposition of investments of the fund. The board, from time to time, shall review those policies and advise therein as it considers necessary or desirable. The board shall advise the State Treasurer in the management of the fund and consult the State Treasurer on any matter relating to the investment and reinvestment of moneys in the fund.

16429.3

Moneys placed with the Treasurer for deposit in the Local Agency Investment Fund by cities, counties, special districts, nonprofit corporations, or qualified quasi-governmental agencies shall not be subject to either of the following:

(a) Transfer or loan pursuant to Sections 16310, 16312, or 16313.

(b) Impoundment or seizure by any state official or state agency.

16429.4

The right of a city, county, city and county, special district, nonprofit corporation, or qualified quasi-governmental agency to withdraw its deposited moneys from the Local Agency Investment Fund, upon demand, may not be altered, impaired, or denied, in any way, by any state official or state agency based upon the state's failure to adopt a State Budget by July 1 of each new fiscal year.

Government Code Section 27000-27013

27000

The county treasurer shall receive and keep safely all money belonging to the county and all other money directed by law to be paid to him and apply and pay it out, rendering the account as required by law.

27000.1

Subject to Section 53607, the board of supervisors may, by ordinance, delegate to the county treasurer the authority to invest or reinvest the funds of the county

and the funds of other depositors in the county treasury, pursuant to Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of title 5. The county treasurer shall thereafter assume full responsibility for those transactions until the board of supervisors either revokes its delegation of authority, by ordinance, or decides not to renew the annual delegation, as provided in Section 53607. Nothing in this section shall limit the county treasurer's authority pursuant to Section 53635 or 53684.

27000.3

(a) With regard to county funds deposited in the county treasury, the board of supervisors is the agent of the county who serves as a fiduciary and is subject to the prudent investor standard, unless a delegation has occurred pursuant to Section 53607 in which case the county treasurer shall be the agent of the county with respect to these funds, serve as a fiduciary, and be subject to the prudent investor standard and the board of supervisors shall not be the agent, serve as a fiduciary, or be subject to the prudent investor standard.

(b) With regard to funds deposited in the county treasury that are deposited by local agencies other than the county and at the discretion of those local agencies, the county treasurer serves as a fiduciary subject to the prudent investor standard.

(c) When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, the county treasurer or the board of supervisors, as applicable, shall act with care, skill, prudence, and diligence under the circumstances then prevailing, specifically including, but not limited to, the general economic conditions and the anticipated needs of the county and other depositors, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the county and the other depositors. Within the limitations of this section and considering individual investments as part of an overall investment strategy, investments may be acquired as authorized by law. Nothing in this chapter is intended to grant investment authority to any person or governing body except as provided in Sections 53601, 53607, and 53635.

27000.5

When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, the primary objective of the county treasurer or the board of supervisors, as the case may be, shall be to safeguard the principal of the funds under the treasurer's or the board's control. The secondary objective shall be to meet the liquidity needs of the depositor. The third objective shall be to achieve a return on the funds under his or her control.

27000.6

The provisions of Sections 27000.7, 27000.8, and 27000.9 shall become effective only in those counties in which, prior to the first date of the period for filing declarations of candidacy for the office of county treasurer, county tax collector, or county treasurer-tax collector, the board of supervisors by majority vote at

a regular meeting with all members present, enact an ordinance adopting the provisions of those sections. That ordinance may be repealed by the board of supervisors at any time.

27000.7

(a) No person shall be eligible for election or appointment to the office of county treasurer, county tax collector, or county treasurer-tax collector of any county unless that person meets at least one of the following criteria:

(1) The person has served in a senior financial management position in a county, city, or other public agency dealing with similar financial responsibilities for a continuous period of not less than three years, including, but not limited to, treasurer, tax collector, auditor, auditor-controller, or the chief deputy or an assistant in those offices.

(2) The person possesses a valid baccalaureate, masters, or doctoral degree from an accredited college or university in any of the following major fields of study: business administration, public administration, economics, finance, accounting, or a related field, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(3) The person possesses a valid certificate issued by the California Board of Accountancy pursuant to Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code, showing that person to be, and a permit authorizing that person to practice as, a certified public accountant.

(4) The person possesses a valid charter issued by the Institute of Chartered Financial Analysts showing the person to be designated a Chartered Financial Analyst, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(5) The person possesses a valid certificate issued by the Treasury Management Association showing the person to be designated a Certified Cash Manager, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(b) This section shall only apply to any person duly elected or appointed as a county treasurer, county tax collector, or county treasurer-tax collector on or after January 1, 1998.

27000.8

Any duly elected county treasurer, county tax collector, or county treasurer-tax collector serving in that office on January 1, 1996, may serve for his or her remaining term of office during which period of time the requirements of this section shall not apply. After the election of a county treasurer, county tax collector, or county treasurer-tax collector to office, that person shall complete a valid continuing course of study as prescribed in this section, and shall during the person's four-year term of office on or before June 30 of the fourth year, render to the Controller a certification indicating that the person has successfully completed

a continuing education program consisting of, at a minimum, 48 hours, or an equivalent amount of continuing education units within the discipline of treasury management, tax collection, public finance, public administration, governmental accounting, or directly related subjects, offered by a recognized state or national association, institute, or accredited college or university, or the California Debt and Investment Advisory Commission, that provides the requisite educational programs prescribed in this section. The willful or negligent failure of any elected county treasurer, county tax collector, or county treasurer-tax collector to comply with the requirements of this section shall be deemed a violation of this section.

27000.9

Notwithstanding any other requirement of law, any duly appointed county officer serving in the capacity of county treasurer, county tax collector, or county treasurer-tax collector shall, beginning in 2000, complete a valid continuing course of study as prescribed in this section, and shall, on or before June 30 of each two-year period, render to the Controller, a certification indicating that the county officer has successfully completed a continuing education program consisting of, at a minimum, 24 hours or an equivalent amount of continuing education units within the discipline of treasury management, tax collection, public finance, public administration, governmental accounting, or directly related subjects, offered by a recognized state or national association, institute, or accredited college or university, or the California Debt and Investment Advisory Commission, that provides the requisite educational programs prescribed in this section. The willful or negligent failure of any county officer serving in the capacity of county treasurer, county tax collector, or county treasurer-tax collector to comply with the requirements of this section shall be deemed a violation of this section.

27001

The treasurer shall file and keep the certificates of the auditor delivered to him or her when money is paid into the treasury.

Notwithstanding Sections 26201, 26202, and 26205, the treasurer may destroy any certificate pursuant to this section under either of the following circumstances:

(a) The certificate has been filed for more than five years.

(b) The certificate has been filed for more than one year, and all of the following conditions are complied with:

(1) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, or recorded on optical disk or reproduced on any other medium that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records if the copy is kept or maintained for five years from the date of the document.

(2) The device used to reproduce the record, paper, or document on film or any other medium is one that accurately reproduces the original thereof in all details. A duplicate copy of any record reproduced in compliance with Section 12168.7

for recording of permanent or nonpermanent records, whichever applies, shall be deemed an original.

(3) The photographs, microphotographs, or other reproductions on film or any other medium are placed in conveniently accessible files and provision is made for preserving, examining, and using the same.

(4) The record, paper, or document is reproduced and preserved utilizing other information technology.

27002

The treasurer shall keep an account of the receipt and expenditure of all money received or paid out by him or her in books provided for the purpose. He or she shall enter in the books the amount, the time, from whom, and on what account all money was received by him or her, and the warrant number, the amount, time, and on what account all disbursements were made by him or her.

27002.1

(a) The treasurer may, in lieu of entering in books an account of the receipt and expenditure of all money received or paid out by him or her as provided in Section 27002, photograph, microphotograph, photocopy, or enter into an electronic data-processing system that utilizes optical transmission and filing, all receipts for money received by him or her and all warrants paid out by him or her.

(b) Every reproduction described in subdivision (a) shall be deemed and considered an original, and a transcript, exemplification, or certified copy of any of those reproductions shall be deemed and considered a transcript, exemplification, or certified copy, as the case may be, of the original.

(c) All reproductions described in subdivision (a) shall be properly indexed and placed in convenient, accessible files. Each roll of microfilm shall be deemed and constitute a book, and shall be designated and numbered, and provision shall be made for preserving, examining, and using it. A duplicate of each roll of microfilm shall be made and kept in a safe and separate place.

27003

The treasurer shall keep his or her books or any other authorized form of record so that the amounts received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole receipts and expenditures shown in one general or cash account.

27005

The treasurer shall disburse the county money and all other money placed in his or her custody by official authority only on county warrants, checks, or electronic fund transfers issued by the county auditor, except for the making of legal investments.

27006

The treasurer shall disburse the money in the treasury on county warrants only when they are based on orders of the board of supervisors, upon order of the superior court, or as otherwise provided by law. In the payment of the warrants he may issue his order, check, or draft drawn upon proper funds that are on deposit in any bank.

27007

The treasurer shall keep all money belonging to the State, or any county of the State in his own possession until disbursed according to law. He shall not place the money in the possession of any person to be used for any purpose, nor shall he loan or in any manner use, or permit any person to use it, except as provided by law. This section does not prohibit him from making special deposits for the safe-keeping of public money, but he is liable therefore on his official bond.

27008

(a) The treasurer shall not receive money into the treasury or for deposit with him or her as treasurer, unless it is accompanied by the certificate of the auditor.

(b) Notwithstanding subdivision (a), the auditor and treasurer may establish alternate control procedures for the treasurer to receive or deposit money without the certificate of the auditor.

27009

The treasurer shall give a receipt to each person who deposits money into the county treasury.

27010

The treasurer may receive any money constituting gift, bequest, or devise, and pay it out in accordance with the terms thereof, or, if none are fixed, according to law.

27011

Any county officer who knowingly accepts or allows any deposit in the county treasury of money from any private and unofficial source is guilty of a misdemeanor, punishable by imprisonment in the county jail for not less than six months nor more than one year, or by a fine of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000), or by both that fine and imprisonment, and shall forfeit his or her office.

27012

The Controller may summon county treasurers or the authorized representative of any county treasurer to meet with the Controller or his or her duly

authorized representatives, in those groups and at that place or those places within the state as may be designated by the Controller for the purpose of discussing the interpretation, procedures, uniformity of operation, and efficient administration of the Revenue and Taxation Code and the Government Code. The actual and necessary expenses of any county officer or his or her authorized representative that are incurred while traveling to and from or while attending any meeting called pursuant to this section by the Controller shall be a charge against the county, to be paid in the same manner as other county charges are paid, provided that prior approval of the board of supervisors has been obtained.

27013

Notwithstanding any other provision of law, any treasurer, or other authorized county officer, who invests, deposits or otherwise handles funds for public agencies for the purpose of earning interest or other income on such funds as permitted by law, may deduct from such interest or income, before distribution thereof, the actual administrative cost of such investing, depositing or handling of funds and of distribution of such interest or income. Such cost reimbursement shall be paid into the county general fund.

Government Code Section 27130-27137

27130

The Legislature finds and declares that local agencies, including school districts, should participate in reviewing the policies that guide the investment of those funds. The Legislature further finds and declares that by pooling deposits from local agencies and other participants, county treasuries operate in the public interest when they consolidate banking and investment activities, reduce duplication, achieve economies of scale, and carry out coherent and consolidated investment strategies. The Legislature further finds and declares that the creation of county treasury oversight committees will promote the public interest by involving depositors in the management of their funds and by enhancing the security and investment return on their funds by providing a more stable and predictable balance for investment by establishing criteria for the withdrawal of funds.

27131

(a) The board of supervisors in each county or city and county may, if the county or city and county is investing surplus funds, establish a county treasury oversight committee. The board of supervisors, in consultation with the county treasurer, shall determine the exact size of the committee, which shall consist of from 3 to 11 members, and the categories from which the members shall be represented, as specified in subdivisions (a) to (g), inclusive, of Section 27132. Members shall be nominated by the treasurer and confirmed by the board of supervisors.

(b) In recognition of the state and local interests served by the action made optional in subdivision (a), the Legislature encourages local agencies to continue taking the action formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

27132

The county treasury oversight committee, pursuant to Section 27131, shall consist of members appointed from the following:

(a) The county treasurer.

(b) The county auditor, auditor-controller, or finance director, as the case may be.

(c) A representative appointed by the county board of supervisors.

(d) The county superintendent of schools or his or her designee.

(e) A representative selected by a majority of the presiding officers of the governing bodies of the school districts and community college districts in the county.

(f) A representative selected by a majority of the presiding officers of the legislative bodies of the special districts in the county that are required or authorized to deposit funds in the county treasury.

(g) Up to five other members of the public.

(1) A majority of the other public members shall have expertise in, or an academic background in, public finance.

(2) The other public members shall be economically diverse and bipartisan in political registration.

27132.1

A member may not be employed by an entity that has (a) contributed to the campaign of a candidate for the office of local treasurer, or (b) contributed to the campaign of a candidate to be a member of a legislative body of any local agency that has deposited funds in the county treasury, in the previous three years or during the period that the employee is a member of the committee.

27132.2

A member may not directly or indirectly raise money for a candidate for local treasurer or a member of the governing board of any local agency that has deposited funds in the county treasury while a member of the committee.

27132.3

A member may not secure employment with, or be employed by, bond underwriters, bond counsel, security brokerages or dealers, or financial services firms,

with whom the treasurer is doing business during the period that the person is a member of the committee or for one year after leaving the committee.

27132.4

Committee meetings shall be open to the public and subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

27133

In any county that establishes a county treasury oversight committee pursuant to this article, the county treasurer shall annually prepare an investment policy that will be reviewed and monitored by the county treasury oversight committee. The investment policy shall include all of the following:

(a) A list of securities or other instruments in which the county treasury may invest, according to law, including the maximum allowable percentage by type of security.

(b) The maximum term of any security purchased by the county treasury.

(c) The criteria for selecting security brokers and dealers from, to, or through whom the county treasury may purchase or sell securities or other instruments. The criteria shall prohibit the selection of any broker, brokerage, dealer, or securities firm that has, within any consecutive 48-month period following January 1, 1996, made a political contribution in an amount exceeding the limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board, to the local treasurer, any member of the governing board of the local agency, or any candidate for those offices.

(d) Limits on the receipt of honoraria, gifts, and gratuities from advisors, brokers, dealers, bankers, or other persons with whom the county treasury conducts business by any member of the county treasury oversight committee. These limits may be in addition to the limits set by a committee member's own agency, by state law, or by the Fair Political Practices Commission.

(e) A requirement that the county treasurer provide the county treasury oversight committee with an investment report as required by the board of supervisors.

(f) The manner of calculating and apportioning the costs, authorized by Section 27013, of investing, depositing, banking, auditing, reporting, or otherwise handling or managing funds.

(g) The terms and conditions under which local agencies and other entities that are not required to deposit their funds in the county treasury may deposit funds for investment purposes.

(h) Criteria for considering requests to withdraw funds from the county treasury, pursuant to Section 27136. The criteria shall include an assessment of the effect of a proposed withdrawal on the stability and predictability of the investments in the county treasury.

27134

The county treasury oversight committee shall cause an annual audit to be conducted to determine the county treasury's compliance with this article. The audit may include issues relating to the structure of the investment portfolio and risk.

27135

The costs of complying with this article shall be county charges and may be included with those charges enumerated under Section 27013.

27136

(a) Notwithstanding any other provision of law, any local agency, public agency, public entity, or public official that has funds on deposit in the county treasury pool and that seeks to withdraw funds for the purpose of investing or depositing those funds outside the county treasury pool, shall first submit the request for withdrawal to the county treasurer before withdrawing funds from the county treasury pool.

(b) The county treasurer shall evaluate each proposed withdrawal for its consistency with the criteria adopted pursuant to subdivision (h) of Section 27133. Prior to approving a withdrawal, the county treasurer shall find that the proposed withdrawal will not adversely affect the interests of the other depositors in the county treasury pool.

27137

Nothing in this article shall be construed to allow the county treasury oversight committee to direct individual investment decisions, select individual investment advisors, brokers, or dealers, or impinge on the day-to-day operations of the county treasury.

Government Code Section 53600-53610

53600

As used in this article, "local agency" means county, city, city and county, including a chartered city or county, school district, community college district, public district, county board of education, county superintendent of schools, or any public or municipal corporation.

53600.3

Except as provided in subdivision (a) of Section 27000.3, all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public

funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law.

53600.5

When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, the primary objective of a trustee shall be to safeguard the principal of the funds under its control. The secondary objective shall be to meet the liquidity needs of the depositor. The third objective shall be to achieve a return on the funds under its control.

53600.6.

The Legislature hereby finds that the solvency and creditworthiness of each individual local agency can impact the solvency and creditworthiness of the state and other local agencies within the state. Therefore, to protect the solvency and creditworthiness of the state and all of its political subdivisions, the Legislature hereby declares that the deposit and investment of public funds by local officials and local agencies is an issue of statewide concern.

53601.

This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, Section 53635 shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having moneys in a sinking fund or moneys in its treasury not required for the immediate needs of the local agency may invest any portion of the moneys that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery.

For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the

date of purchase. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement or securities lending agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Registered treasury notes or bonds of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.

(e) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

(g) Bankers' acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances shall not exceed 180 days' maturity or 40 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 30 percent of the agency's moneys may be invested in the bankers' acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing moneys in its treasury in a manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

(1) The entity meets the following criteria:

(A) Is organized and operating in the United States as a general corporation.

(B) Has total assets in excess of five hundred million dollars ($500,000,000).

(C) Has debt other than commercial paper, if any, that is rated in a rating category of "A" or its equivalent or higher by an NRSRO.

(2) The entity meets the following criteria:

(A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.

(B) Has programwide credit enhancements including, but not limited to, over-collateralization, letters of credit, or surety bond.

(C) Has commercial paper that is rated "A-1" or higher, or the equivalent, by an NRSRO.

Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, may invest no more than 25 percent of their moneys in eligible commercial paper. Local agencies, other than counties or a city and county, may purchase no more than 10 percent of the outstanding commercial paper of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in subdivision (a) of Section 53635.

(i) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the moneys are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or a person with investment decision making authority in the administrative office manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(j)(1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on an investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlie a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold using a reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty using a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the everse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4)(A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may be made only upon prior approval of the governing body of the local agency and shall be made only with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

(5)(A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of "A" or its equivalent or better by an NRSRO. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's moneys that may be invested pursuant to this section.

(l)(1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the pupose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the require-

ments of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(o) A mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be issued by an issuer rated in a rating category of "A" or its equivalent or better rating for the issuer's debt as provided by an NRSRO and rated in a rating category of "AA" or its equivalent or better by an NRSRO. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus moneys that may be invested pursuant to this section.

(p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (o), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

(1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.

(2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (n), inclusive.

(3) The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

(q) United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Investments under this subdivision shall be rated in a rating category of "AA" or its equivalent or better by an NRSRO and shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section.

53601.1

The authority of a local agency to invest funds pursuant to Section 53601 includes, in addition thereto, authority to invest in financial futures or financial option contracts in any of the investment categories enumerated in that section.

53601.2

As used in this article, "corporation" includes a limited liability company.

53601.5

The purchase by a local agency of any investment authorized pursuant to Section 53601 or 53601.1, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a savings association or federal association (as defined by Section 5102 of the Financial Code) or from a brokerage firm designated as a primary government dealer by the Federal Reserve bank.

53601.6

(a) A local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with Section 53630) in inverse floaters, range notes, or mortgage-derived, interest-only strips.

(b) A local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with Section 53630) in any security that could result in zero interest accrual if held to maturity. However, a local agency may hold prohibited instruments until their maturity dates. The limitation in this subdivision shall not apply to local agency investments in shares of beneficial interest issued by diversified management companies registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) that are authorized for investment pursuant to subdivision (l) of Section 53601.

53601.8

Notwithstanding Section 53601 or any other provision of this code, a local agency that has the authority under law to invest funds, at its discretion, may invest a portion of its surplus funds in deposits at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of deposits. The following conditions shall apply:

(a) The local agency shall choose a nationally or state chartered commercial bank, savings bank, savings and loan association, or credit union in this state to invest the funds, which shall be known as the "selected" depository institution.

(b) The selected depository institution may use a private sector entity to help place local agency deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States and are within the network used by the private sector entity for this purpose.

(c) Any private sector entity used by a selected depository institution to help place its local agency deposits shall maintain policies and procedures requiring both of the following:

(1) The full amount of each deposit placed pursuant to subdivision (b) and the interest that may accrue on each such deposit shall at all times be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(2) Every depository institution where funds are placed shall be capitalized at a level that is sufficient, and be otherwise eligible, to receive such deposits pursu-

ant to regulations of the Federal Deposit Insurance Corporation or the National Credit Union Administration, as applicable.

(d) The selected depository institution shall serve as a custodian for each such deposit.

(e) On the same date that the local agency's funds are placed pursuant to subdivision (b) by the private sector entity, the selected depository institution shall receive an amount of insured deposits from other financial institutions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution pursuant to subdivision (b).

(f) Notwithstanding subdivisions (a) to (e), inclusive, a credit union shall not act as a selected depository institution under this section or Section 53635.8 unless both of the following conditions are satisfied:

(1) The credit union offers federal depository insurance through the National Credit Union Administration.

(2) The credit union is in possession of written guidance or other written communication from the National Credit Union Administration authorizing participation of federally insured credit unions in one or more deposit placement services and affirming that the moneys held by those credit unions while participating in a deposit placement service will at all times be insured by the federal government.

(g) It is the intent of the Legislature that this section shall not restrict competition among private sector entities that provide placement services pursuant to this section.

(h) The deposits placed pursuant to this section and Section 53635.8 shall not, in total, exceed 30 percent of the agency's funds that may be invested for this purpose.

(i) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

53602

The legislative body shall invest only in notes, bonds, bills, certificates of indebtedness, warrants, or registered warrants which are legal investments for savings banks in the State, provided, that the board of supervisors of a county may, by a four-fifths vote thereof, invest in notes, warrants or other evidences of indebtedness of public districts wholly or partly within the county, whether or not such notes, warrants, or other evidences of indebtedness are legal investments for savings banks.

53603

The legislative body may make the investment by direct purchase of any issue of eligible securities at their original sale or after they have been issued.

53604

The legislative body may sell, or exchange for other eligible securities, and reinvest the proceeds of, the securities purchased.

53605

From time to time, the legislative body shall sell the securities so that the proceeds may be applied to the purposes for which the original purchase money was placed in the sinking fund or the treasury of the local agency.

53606

The bonds purchased, which were issued by the purchaser, may be canceled either in satisfaction or sinking fund obligations or otherwise. When canceled, they are no longer outstanding, unless in its discretion, the legislative body holds then uncanceled. While held uncanceled, the bonds may be resold.

53607

The authority of the legislative body to invest or to reinvest funds of a local agency, or to sell or exchange securities so purchased, may be delegated for a one-year period by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked or expires, and shall make a monthly report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year.

53608

The legislative body of a local agency may deposit for safekeeping with a federal or state association (as defined by Section 5102 of the Financial Code), a trust company or a state or national bank located within this state or with the Federal Reserve Bank of San Francisco or any branch thereof within this state, or with any Federal Reserve bank or with any state or national bank located in any city designated as a reserve city by the Board of Governors of the Federal Reserve System, the bonds, notes, bills, debentures, obligations, certificates of indebtedness, warrants, or other evidences of indebtedness in which the money of the local agency is invested pursuant to this article or pursuant to other legislative authority. The local agency shall take from such financial institution a receipt for securities so deposited. The authority of the legislative body to deposit for safekeeping may be delegated by the legislative body to the treasurer of the local agency; the treasurer shall not be responsible for securities delivered to and receipted for by a financial institution until they are withdrawn from the financial institution by the treasurer.

53609

Notwithstanding the provisions of this chapter or any other provisions of this code, funds held by a local agency pursuant to a written agreement between the agency and employees of the agency to defer a portion of the compensation otherwise

receivable by the agency's employees and pursuant to a plan for such deferral as adopted by the governing body of the agency, may be invested in the types of investments set forth in Sections 53601 and 53602 of this code, and may additionally be invested in corporate stocks, bonds, and securities, mutual funds, savings and loan accounts, credit union accounts, life insurance policies, annuities, mortgages, deeds of trust, or other security interests in real or personal property. Nothing herein shall be construed to permit any type of investment prohibited by the Constitution.

Deferred compensation funds are public pension or retirement funds for the purposes of Section 17 of Article XVI of the Constitution.

53610

(a) For purposes of this section, "Proposition 1A receivable" means the right to payment of moneys due or to become due to a local agency, pursuant to clause (iii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII of the California Constitution and Section 100.06 of the Revenue and Taxation Code.

(b) Notwithstanding any other law, a local agency may purchase, with its revenue, Proposition 1A receivables sold pursuant to Section 53999.

(c) A purchaser of Proposition 1A receivables pursuant to this section shall not offer them for sale pursuant to Section 6588.

Government Code Section 53630-53686

53630

As used in this article:

(a) "Local agency" means county, city, city and county, including a chartered city or county, a community college district, or other public agency or corporation in this state.

(b) "Treasurer" means treasurer of the local agency.

(c) "Depository" means a state or national bank, savings association or federal association, a state or federal credit union, or a federally insured industrial loan company, in this state in which the moneys of a local agency are deposited.

(d) "Agent of depository" means a trust company or trust department of a state or national bank located in this state, including the trust department of a depository where authorized, and the Federal Home Loan Bank of San Francisco, which is authorized to act as an agent of depository for the purposes of this article pursuant to Section 53657.

(e) "Security" means any of the eligible securities or obligations listed in Section 53651.

(f) "Pooled securities" means eligible securities held by an agent of depository for a depository and securing deposits of one or more local agencies.

(g) "Administrator" means the Administrator of Local Agency Security of the State of California.

(h) "Savings association or federal association" means a savings association, savings and loan association, or savings bank as defined by Section 5102 of the Financial Code.

(i) "Federally insured industrial loan company" means an industrial loan company licensed under Division 7 (commencing with Section 18000) of the Financial Code, the investment certificates of which are insured by the Federal Deposit Insurance Corporation.

(j) "Corporation" includes a limited liability company.

53630.1

The Legislature hereby finds that the solvency and creditworthiness of each individual local agency can impact the solvency and creditworthiness of the state and other local agencies within the state. Therefore, to protect the solvency and creditworthiness of the state and all of its political subdivisions, the Legislature hereby declares that the deposit and investment of public funds by local officials and local agencies is an issue of statewide concern.

53630.5

(a) The definitions in Section 1750 of, and Chapter 1 (commencing with Section 99) of Division 1 of, the Financial Code apply to this section.

(b) In this article, for purposes of being a depository of moneys belonging to or being in the custody of a local agency, the phrases "state or national bank located in this state," "state or national bank," "state or national bank in this state," and "state or national banks in the state" include, without limitation, any of the following:

(1) Any California branch office of a foreign (other state) state bank that the bank is authorized to maintain under the law of its domicile and federal law.

(2) Any California branch office of a foreign (other state) national bank that the bank is authorized to maintain under federal law.

(3) Any California branch office of a foreign (other nation) bank that the bank is licensed to maintain under Article 3 (commencing with Section 1800) of Chapter 20 of Division 1.1 of the Financial Code.

(4) Any California federal branch of a foreign (other nation) bank that the bank is authorized to maintain under federal law.

53631

Under those conditions as the treasurer of a local agency fixes with the approval of the legislative body, he or she may establish accounts at banks within or without the state and deposit money in those accounts to the extent necessary to pay the principal and interest of bonds to pay any warrant that has been presented

for payment, or to fund any electronic disbursement of funds from the treasury of the local agency. This article does not apply to deposits for those purposes.

53632

There are three classes of deposits:

(a) Inactive deposits.

(b) Active deposits.

(c) Interest-bearing active deposits.

53632.5

There are three classes of security for deposits:

(a) Securities described in subdivision (m) of Section 53651.

(b) Securities described in subdivision (p) of Section 53651.

(c) Securities enumerated in Section 53651, except for those described in subdivisions (m) and (p) of that section.

53633

The treasurer shall determine the amounts of money to be deposited as inactive, active, and interest-bearing active deposits, except as otherwise provided in Section 53679.

53634

The treasurer may call in money from inactive deposits and place it in active deposits as current demands require. When there is money in his possession for which there is no demand as inactive deposits, he may place it as active deposits.

53635

(a) This section shall apply to a local agency that is a county, a city and a county, or other local agency that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body. However, Section 53601 shall apply to all local agencies that pool money in deposits or investments exclusively with local agencies that have the same governing body.

This section shall be interpreted in a manner that recognizes the distinct characteristics of investment pools and the distinct administrative burdens on managing and investing funds on a pooled basis pursuant to Article 6 (commencing with Section 27130) of Chapter 5 of Division 2 of Title 3.

A local agency that is a county, a city and county, or other local agency that pools

money in deposits or investments with other agencies may invest in commercial paper pursuant to subdivision (h) of Section 53601, except that the local agency shall be subject to the following concentration limits:

(1) No more than 40 percent of the local agency's money may be invested in eligible commercial paper.

(2) No more than 10 percent of the total assets of the investments held by a local agency may be invested in any one issuer's commercial paper.

(b) Notwithstanding Section 53601, the City of Los Angeles shall be subject to the concentration limits of this section for counties and for cities and counties with regard to the investment of money in eligible commercial paper.

53635.2

As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, savings associations, federal associations, credit unions, or federally insured industrial loan companies in this state selected by the treasurer or other official having legal custody of the money; or may be invested in the investments set forth in Section 53601. To be eligible to receive local agency money, a bank, savings association, federal association, or federally insured industrial loan company shall have received an overall rating of not less than "satisfactory" in its most recent evaluation by the appropriate federal financial supervisory agency of its record of meeting the credit needs of California's communities, including low- and moderate-income neighborhoods, pursuant to Section 2906 of Title 12 of the United States Code. Sections 53601.5 and 53601.6 shall apply to all investments that are acquired pursuant to this section.

53635.7

In making any decision that involves borrowing in the amount of one hundred thousand dollars ($100,000) or more, the legislative body of the local agency shall discuss, consider, and deliberate each decision as a separate item of business on the agenda of its meeting as prescribed in Chapter 9 (commencing with Section 54950). As used in this section, "borrowing" does not include bank overdrafts or security lending.

53635.8

Notwithstanding Section 53601 or any other provision of this code, a local agency that has the authority under law to invest funds, at its discretion, may invest a portion of its surplus funds in deposits at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of deposits. The following conditions shall apply:

(a) The local agency shall choose a nationally or state chartered commercial bank, savings bank, savings and loan association, or credit union in this state to invest

the funds, which shall be known as the "selected" depository institution.

(b) The selected depository institution may use a private sector entity to help place local agency deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States and are within the network used by the private sector entity for this purpose.

(c) Any private sector entity used by a selected depository institution to help place its local agency deposits shall maintain policies and procedures requiring both of the following:

(1) The full amount of each deposit placed pursuant to subdivision (b) and the interest that may accrue on each such deposit shall at all times be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(2) Every depository institution where funds are placed shall be capitalized at a level that is sufficient, and be otherwise eligible, to receive such deposits pursuant to regulations of the Federal Deposit Insurance Corporation or the National Credit Union Administration, as applicable.

(d) The selected depository institution shall serve as a custodian for each such deposit.

(e) On the same date that the local agency's funds are placed pursuant to subdivision (b) by the private sector entity, the selected depository institution shall receive an amount of insured deposits from other financial institutions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution for investment pursuant to subdivision (b).

(f) Notwithstanding subdivisions (a) to (e), inclusive, a credit union shall not act as a selected depository institution under this section or Section 53601.8 unless both of the following conditions are satisfied:

(1) The credit union offers federal depository insurance through the National Credit Union Administration.

(2) The credit union is in possession of written guidance or other written communication from the National Credit Union Administration authorizing participation of federally-insured credit unions in one or more deposit placement services and affirming that the moneys held by those credit unions while participating in a deposit placement service will at all times be insured by the federal government.

(g) It is the intent of the Legislature that this section shall not restrict competition among private sector entities that provide placement services pursuant to this section.

(h) The deposits placed pursuant to this section and Section 53601.8 shall not, in total, exceed 30 percent of the agency's funds that may be invested for this purpose.

(i) This section shall remain in effect until January 1, 2021, and as of that date is repealed.

53636

Money so deposited is deemed to be in the treasury of the local agency.

53637

The money shall be deposited in any bank, savings association or federal association, state or federal credit union, or federally insured industrial loan company with the objective of realizing maximum return, consistent with prudent financial management, except that money shall not be deposited in any state or federal credit union if a member of the legislative body of a local agency, or any person with investment decision making authority of the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union.

53638

(a) The deposit shall not exceed the shareholder's equity of any depository bank. For the purposes of this subdivision, shareholder's equity shall be determined in accordance with Section 118 of the Financial Code, but shall be deemed to include capital notes and debentures.

(b) The deposit shall not exceed the total of the net worth of any depository savings association or federal association, except that deposits not exceeding a total of five hundred thousand dollars ($500,000) may be made to a savings association or federal association without regard to the net worth of that depository, if such deposits are insured or secured as required by law.

(c) The deposit to the share accounts of any regularly chartered credit union shall not exceed the total of the unimpaired capital and surplus of the credit union, as defined by rule of the Commissioner of Financial Institutions, except that the deposit to any credit union share account in an amount not exceeding five hundred thousand dollars ($500,000) may be made if the share accounts of that credit union are insured or guaranteed pursuant to Section 14858 of the Financial Code or are secured as required by law.

(d) The deposit in investment certificates of a federally insured industrial loan company shall not exceed the total of the unimpaired capital and surplus of the insured industrial loan company.

53639

Except as otherwise provided in Section 53682, the depository shall bear the expenses of transportation of money to and from the depository.

53640

Except as otherwise provided in Section 53682, the depository shall handle, collect, and pay all checks, drafts, and other exchange without cost to the local agency.

53641

When money is deposited in a depository, the treasurer or other authorized official shall take and preserve a receipt, certificate of deposit, or other evidence of the deposit as he or she requires.

53642

The money deposited may be drawn out by check or order of the treasurer or other official authorized to make such deposit.

53643

The treasurer may deposit any part of the money as agreed upon between the treasurer and the depository.

53644

If an agreement is not made:

(a) Active deposits and interest thereon are subject to withdrawal upon the demand of the treasurer or other authorized official, subject to any penalties which may be prescribed by federal law or regulation.

(b) Inactive deposits are subject to notice of at least thirty days before withdrawal.

53645

Interest shall be computed and paid by the depository, as follows:

(a) For active deposits upon which interest is payable, interest shall be computed on the average daily balance for the calendar quarter, and shall be paid quarterly.

(b) For inactive deposits, interest shall be computed on a 360-day basis, and shall be paid quarterly.

53646

(a)(1) In the case of county government, the treasurer may annually render to the board of supervisors and any oversight committee a statement of investment policy, which the board shall review and approve at a public meeting. Any change in the policy shall also be reviewed and approved by the board at a public meeting.

(2) In the case of any other local agency, the treasurer or chief fiscal officer of the local agency may annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy,

which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

(b)(1) The treasurer or chief fiscal officer may render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency. The quarterly report shall be so submitted within 30 days following the end of the quarter covered by the report. Except as provided in subdivisions (e) and (f), this report shall include the type of investment, issuer, date of maturity par and dollar amount invested on all securities, investments and moneys held by the local agency, and shall additionally include a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties, including lending programs. With respect to all securities held by the local agency, and under management of any outside party that is not also a local agency or the State of California Local Agency Investment Fund, the report shall also include a current market value as of the date of the report, and shall include the source of this same valuation.

(2) The quarterly report shall state compliance of the portfolio to the statement of investment policy, or manner in which the portfolio is not in compliance.

(3) The quarterly report shall include a statement denoting the ability of the local agency to meet its pool's expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available.

(4) In the quarterly report, a subsidiary ledger of investments may be used in accordance with accepted accounting practices.

(c) Pursuant to subdivision (b), the treasurer or chief fiscal officer shall report whatever additional information or data may be required by the legislative body of the local agency.

(d) The legislative body of a local agency may elect to require the report specified in subdivision (b) to be made on a monthly basis instead of quarterly.

(e) For local agency investments that have been placed in the Local Agency Investment Fund, created by Section 16429.1, in National Credit Union Share Insurance Fund-insured accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, in a county investment pool, or any combination of these, the treasurer or chief fiscal officer may supply to the governing body, chief executive officer, and the auditor of the local agency the most recent statement or statements received by the local agency from these institutions in lieu of the information required by paragraph (1) of subdivision (b) regarding investments in these institutions.

(f) The treasurer or chief fiscal officer shall not be required to render a quarterly report, as required by subdivision (b), to a legislative body or any oversight committee of a school district or county office of education for securities, investments, or moneys held by the school district or county office of education in individual accounts that are less than twenty-five thousand dollars ($25,000).

(g) In recognition of the state and local interests served by the actions made op-

tional in subdivisions (a) and (b), the Legislature encourages the local agency officials to continue taking the actions formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

53647

(a) Interest on all money deposited belongs to, and shall be paid quarterly into the general fund of, the local agency represented by the officer making the deposit, unless otherwise directed by law.

(b) Notwithstanding the provisions of subdivision (a), and except as otherwise directed by law, if the governing body of the local agency represented by the officer making the deposit so directs, such interest shall be paid to the fund which contains the principal on which the interest accrued.

53647.5

Notwithstanding any other provision of law, interest earned on any bail money deposited by a court in a bank account pursuant to Section 1463.1 of the Penal Code and Section 53679 of this code shall, be allocated for the support of that court.

53648

Notwithstanding this article, the treasurer may deposit moneys in, and enter into contracts with, a state or national bank, savings association or federal association, federal or state credit union, or federally insured industrial loan company, pursuant to a federal law or a rule of a federal department or agency adopted pursuant to the law if the law or rule conflicts with this article in regulating the payment of interest on deposits of public moneys by any of the following:

(a) Banks which are Federal Reserve System members or whose deposits are insured by the Federal Deposit Insurance Corporation.

(b) Savings associations or federal associations which are federal home loan bank members or whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

(c) State or federal credit unions whose accounts are insured by the National Credit Union Share Insurance Fund or guaranteed by the California Credit Union Share Guaranty Corporation or insured or guaranteed pursuant to Section 14858 of the Financial Code, unless a member of the legislative body of a local agency, or any person with investment decision making authority of the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union.

(d) A federally insured industrial loan company.

53648.5

Upon the removal by federal law of the conflicting federal law or rule the agreement between the treasurer or other authorized official and a depository may be terminated by either party.

53649

The treasurer is responsible for the safekeeping of money in his or her custody and shall enter into any contract with a depository relating to any deposit which in his or her judgment is to the public advantage. The depository, and the agent of depository to the extent the agent of depository has been notified of deposits and the amount thereof, are responsible for securing moneys deposited pursuant to such a contract in accordance with Section 53652. One copy of each contract shall be filed with the auditor, controller, secretary, or corresponding officer of the local agency. The contract shall:

(a) Fix the duration of deposits, if appropriate.

(b) Fix the interest rate, if any.

(c) Provide conditions for withdrawal and repayment.

(d) Provide for placement of pooled securities in a named agent of depository in accordance with Section 53656.

(e) Grant authority for agent of depository to place securities for safekeeping in accordance with Section 53659.

(f) Set forth in accordance with Section 53665 the conditions upon which the administrator shall order pooled securities converted into money for the benefit of the local agency, and the procedure therefor.

(g) Provide for compliance in all respects with the provisions of this article and other applicable provisions of law.

(h) Provide, upon notice to the treasurer from the administrator, that a treasurer may withdraw deposits in the event a depository fails to pay the assessments, fines, or penalties assessed by the administrator or may withdraw authorization for the placement of pooled securities in an agent of depository in the event that the agent of depository fails to pay the fines or penalties assessed by the administrator.

53651

Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as the loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agen-

cy (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes or assessments to pay the principal and interest of the bonds upon all property within its boundaries subject to taxation or assessment by the local agency or district, and in addition, limited obligation bonds pursuant to Article 4 (commencing with Section 50665) of Chapter 3 of Division 1, senior obligation bonds pursuant to Article 5 (commencing with Section 53387) of Chapter 2.7, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between the public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in the contract pursuant to that subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on the obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the federal home loan banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under that act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy

taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of the department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided the obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, the Asian Development Bank, the International Finance Corporation, or the African Development Bank.

(k) Participation certificates of the Export-Import Bank of the United States.

(l) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(m) Promissory notes secured by first mortgages and first trust deeds which comply with Section 53651.2.

(n) Any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation issued to finance the construction of a school building or school buildings pursuant to a lease or agreement with a school district entered into in compliance with the provisions of Section 39315 or 81345 of the Education Code, and also any bonds, notes, warrants or other evidences of indebtedness issued to refinance those bonds, notes, warrants, or other evidences of indebtedness as specified in Section 39317 of the Education Code.

(o) Any municipal securities, as defined by Section 3(a)(29) of the Securities Exchange Act of June 6, 1934, (15 u.s.c. Sec. 78, as amended), which are issued by this state or any local agency thereof.

(p) With the consent of the treasurer, letters of credit issued by the Federal Home Loan Bank of San Francisco which comply with Section 53651.6.

53651.2

(a) To be an eligible security under subdivision (m) of Section 53651, a promissory note placed in a securities pool on or after January 1, 1987, shall comply with all of the following provisions:

(1) Each promissory note shall be secured by a first mortgage or first trust deed

on improved 1 to 4 unit residential real property located in California, shall be fully amortized over the term of the note, and shall have a term of no more than 30 years. Any first mortgage or first trust deed which secures a promissory note providing for negative amortization shall be removed from the securities pool and replaced with an eligible security under subdivision (m) of Section 53651 if the loan to value ratio exceeds 85 percent of the original appraised value of the security property as a consequence of negative amortization.

(2) Each promissory note shall be eligible for sale to the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation; provided, however, that up to 25 percent of the total dollar amount of any promissory note securities pool established pursuant to Section 53658 may consist of promissory notes with loan amounts which exceed the maximum amounts eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, but which do not exceed: (i) five hundred thousand dollars ($500,000) in the case of a single family dwelling; (ii) one million dollars ($1,000,000) in the case of a 2, 3, or 4 unit dwelling.

(b) The following shall not constitute eligible securities under subdivision (m) of Section 53651:

(1) Any promissory note on which any payment is more than 60 days past due.

(2) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust. For the purposes of this paragraph, no lien specified in Section 766 of the Financial Code shall be considered a prior encumbrance unless any installment or payment thereunder (other than a rental or royalty under a lease) is due and delinquent.

(3) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(c) The depository may exercise, enforce, or waive any right granted to it by the promissory note, mortgage, or deed of trust.

(d) For purposes of this article, the market value of a promissory note which is an eligible security under subdivision (m) of Section 53651, shall be determined in accordance with the regulations adopted by the Treasurer under paragraph (2) of subdivision (m) of Section 53651, as the regulations and statute were in effect on December 31, 1986. However, if and when regulations on the subject are adopted by the administrator, the market value shall be determined in accordance with those regulations of the administrator.

53651.4

(a) A depository that uses eligible securities of the class described in subdivision (m) of Section 53651 shall, within 90 days after the close of each calendar year or within a longer period as the administrator may specify, file with the administrator a report of an independent certified public accountant regarding compliance

with this article and with regulations and orders issued by the administrator under this article with respect to eligible securities of that class. The report shall be based upon the audit, shall contain the information, and shall be in the form the administrator may prescribe. The depository shall provide a copy of the report to the treasurer on request.

(b) If a depository that is a state bank files with the administrator, not less than 90 days before the beginning of the calendar year, a notice that it elects to be examined by the administrator instead of filing a report of an independent certified public accountant under subdivision (a) for that calendar year, the depository shall be exempt from subdivision (a) for that calendar year and shall for that calendar year be subject to examination by the administrator regarding compliance with this article and with regulations and orders under this article with respect to eligible securities of the class described in subdivision (m) of Section 53651. The administrator shall provide a report to a treasurer with deposits in the examined state bank upon request of the treasurer.

(c) A national bank may apply to the administrator to be examined, and the administrator, in his or her discretion, may examine a national bank for the purposes of satisfying the requirements of subdivision (a). The administrator shall provide a report to a treasurer with deposits in the examined national bank upon request of the treasurer.

(d) Whenever the administrator examines a depository pursuant to subdivision (b) or (c), the depository shall pay, within 30 days after receipt of a statement from the administrator, a fee of seventy-five dollars ($75) per hour for each examiner engaged in the examination.

53651.6

(a) To be an eligible security under subdivision (p) of Section 53651, a letter of credit shall be in such form and shall contain such provisions as the administrator may prescribe, and shall include all of the following terms:

(1) The administrator shall be the beneficiary of the letter of credit.

(2) The letter of credit shall be clean and irrevocable and shall provide that the administrator may draw upon it up to the total amount in the event of the failure of the depository savings association or federal association or if the depository savings association or federal association refuses to permit the withdrawal of funds by a treasurer.

53652

To secure active or inactive deposits a depository shall at all times maintain with the agent of depository eligible securities in securities pools, pursuant to Sections 53656 and 53658, in the amounts specified in this section. Uncollected funds shall be excluded from the amount deposited in the depository when determining the security requirements for the deposits.

(a) Eligible securities, except eligible securities of the classes described in subdivisions (m) and (p) of Section 53651, shall have a market value of at least 10 percent in excess of the total amount of all deposits of a depository secured by the eligible securities.

(b) Eligible securities of the class described in subdivision (m) of Section 53651 shall have a market value at least 50 percent in excess of the total amount of all deposits of a depository secured by those eligible securities.

(c) Eligible securities of the class described in subdivision (p) of Section 53651 shall have a market value of at least 5 percent in excess of the total amount of all deposits of a depository secured by those eligible securities. For purposes of this article, the market value of a letter of credit which is an eligible security under subdivision (p) of Section 53651 shall be the amount of credit stated in the letter of credit.

53653

When in his or her discretion local conditions so warrant, the treasurer may waive security for the portion of any deposits as is insured pursuant to federal law, notwithstanding this article. For deposits equivalent to and not less than the maximum amount insured pursuant to federal law for which a treasurer has waived security under this section, a treasurer at his or her discretion may also waive security for the interest accrued on the deposits which, when added to the deposits, would cause the sum of the interest and deposits to exceed the maximum amount insured pursuant to federal law, provided that the interest is computed by the depository on the average daily balance of the deposits, paid monthly and computed on a 360-day basis.

53654

(a) The depository may add securities to the pool or substitute securities of equal value for those in the pool at any time, but shall not interchange classes of security, as defined in Section 53632.5, without prior approval of the treasurer.

(b) Withdrawal of securities from the pool without replacement at equal value may be ordered only by two duly authorized officers or employees of the depository who satisfy the requirements as may be set by the administrator.

(c) The agent of depository is responsible for the safekeeping and disbursement of securities placed in its custody by a depository. It shall release securities only upon presentation by the depository of the most reasonably current statement of the total deposits subject to this article held by the depository, such statement to be verified and countersigned by two duly authorized officers, other than those who ordered the withdrawal of securities. A copy of this statement shall be forwarded to the administrator concurrently by the agent of depository.

53655

A placement of securities by a depository with an agent of depository pursuant to

this article shall have the effect of perfecting a security interest in those securities in the local agencies having deposits in that depository notwithstanding provisions of the Uniform Commercial Code to the contrary and notwithstanding that the agent of depository may be the trust department of the depository.

53656

(a) At the time the treasurer enters into a contract with the depository pursuant to Section 53649, he or she shall authorize the agent of depository designated by the depository, but including the trust department of the depository only when acceptable to both the treasurer and the depository, to hold securities of the depository in accordance with this article to secure the deposit of the local agency.

(b) Only those trust companies and trust departments, or the Federal Home Loan Bank of San Francisco, which have been authorized by the administrator pursuant to Section 53657 shall be authorized by treasurers to act as agents of depository.

(c) The securities are subject to order of the depository in accordance with Section 53654 except when the provisions of subdivision (i) of Section 53661 and Section 53665 are in effect.

(d) An agent of depository shall not release any security held to secure a local agency deposit in a depository unless the administrator issues an order authorizing the release where either of the following occurs:

(1) A state or federal regulatory agency has taken possession of the depository.

(2) A conservator, receiver, or other legal custodian has been appointed for the depository.

53657

(a) No person shall act as an agent of depository unless that person is a trust company located in this state, the trust department of a bank located in this state, or the Federal Home Loan Bank of San Francisco, and is authorized by the administrator to act as an agent of depository.

(b)(1) An application for authorization shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the administrator so requires) be verified in such manner, as the administrator may prescribe.

(2) The fee for filing an application for authorization with the administrator shall be five hundred dollars ($500).

(3) If the administrator finds, with respect to an application for authorization, that the applicant is competent to act as an agent of depository and that it is reasonable to believe the applicant will comply with all applicable provisions of this article and of any regulation or order issued under this article, the administrator shall approve the application. If the administrator finds otherwise, the administrator shall deny the application.

(4) When an application for authorization has been approved, the applicant shall file with the administrator an agreement to comply with all applicable provisions of this article and of any regulation or order issued under this article. The agreement shall be in such form, shall contain such provisions, and shall be signed in such manner as the administrator may prescribe.

(5) When an application for authorization has been approved, the applicant has complied with paragraph (4), and all conditions precedent to authorizing the applicant to act as agent of depository have been fulfilled, the administrator shall authorize the applicant to act as agent of depository.

53658

An agent of a depository may hold and pool securities to secure deposits for one or more depositories pursuant to Section 53656, but shall maintain a separate pool for each said depository. Each local agency shall have an undivided security interest in the pooled securities in the proportion that the amount of its deposits bears to the total amount of deposits secured by the pooled securities.

53659

Whenever an agent of depository accepts securities pursuant to Section 53656 it may, with the authorization of the depository, place such securities for safekeeping with a Federal Reserve Bank or branch thereof or with any bank located in a city designated as a reserve city by the Board of Governors of the Federal Reserve System or with the Federal Home Loan Bank of San Francisco or with a trust company located in this state. Authority for such placement together with the names of the banks or, including the Federal Home Loan Bank of San Francisco, trust companies to be so used, shall be contained in the contract between the treasurer and the depository required in Section 53649.

53660

When deposits of a local agency are secured by pooled securities pursuant to Section 53656, the agent of depository shall make available to the treasurer for review at a mutually agreed upon time and location all of the following information which may be in the form of a copy of the report required in subdivision (e) of Section 53661:

(a) A certification that there are securities in the pool in the amounts required by Section 53652 to secure deposits.

(b) A certified report of the individual securities then on deposit in the pool with the location and total market value thereof.

(c) The total amount of deposits then reported by the depository to be secured by the pool.

53661

(a) The Commissioner of Business Oversight shall act as Administrator of Local Agency Security and shall be responsible for the administration of Sections

53638, 53651, 53651.2, 53651.4, 53651.6, 53652, 53654, 53655, 53656, 53657, 53658, 53659, 53660, 53661, 53663, 53664, 53665, 53666, and 53667.

(b) The administrator shall have the powers necessary or convenient to administer and enforce the sections specified in subdivision (a).

(c)(1) The administrator shall issue regulations consistent with law as the administrator may deem necessary or advisable in executing the powers, duties, and responsibilities assigned by this article. The regulations may include regulations prescribing standards for the valuation, marketability, and liquidity of the eligible securities of the class described in subdivision (m) of Section 53651, regulations prescribing procedures and documentation for adding, withdrawing, substituting, and holding pooled securities, and regulations prescribing the form, content, and execution of any application, report, or other document called for in any of the sections specified in subdivision (a) or in any regulation or order issued under any of those sections.

(2) The administrator, for good cause, may waive any provision of any regulation adopted pursuant to paragraph (1) or any order issued under this article, where the provision is not necessary in the public interest.

(d) The administrator may enter into any contracts or agreements as may be necessary, including joint underwriting agreements, to sell or liquidate eligible securities securing local agency deposits in the event of the failure of the depository or if the depository fails to pay all or part of the deposits of a local agency.

(e) The administrator shall require from every depository a report certified by the agent of depository listing all securities, and the market value thereof, which are securing local agency deposits together with the total deposits then secured by the pool, to determine whether there is compliance with Section 53652. These reports may be required whenever deemed necessary by the administrator, but shall be required at least four times each year at the times designated by the Comptroller of the Currency for reports from national banking associations. These reports shall be filed in the office of the administrator by the depository within 20 business days of the date the administrator calls for the report.

(f) The administrator may have access to reports of examination made by the Comptroller of the Currency insofar as the reports relate to national banking association trust department activities which are subject to this article.

(g)(1) The administrator shall require the immediate substitution of an eligible security, where the substitution is necessary for compliance with Section 53652, if (i) the administrator determines that a security listed in Section 53651 is not qualified to secure public deposits, or (ii) a treasurer, who has deposits secured by the securities pool, provides written notice to the administrator and the administrator confirms that a security in the pool is not qualified to secure public deposits.

(2) The failure of a depository to substitute securities, where the administrator has required the substitution, shall be reported by the administrator promptly to those treasurers having money on deposit in that depository and, in addition, shall be reported as follows:

(A) When that depository is a national bank, to the Comptroller of the Currency of the United States.

(B) When that depository is a state bank, to the Commissioner of Business Oversight.

(C) When that depository is a federal association, to the Office of the Comptroller of the Currency.

(D) When that depository is a savings association, to the Commissioner of Business Oversight.

(E) When that depository is a federal credit union, to the National Credit Union Administration.

(F) When that depository is a state credit union or a federally insured industrial loan company, to the Commissioner of Business Oversight.

(h) The administrator may require from each treasurer a registration report and at appropriate times a report stating the amount and location of each deposit together with other information deemed necessary by the administrator for effective operation of this article. The facts recited in any report from a treasurer to the administrator are conclusively presumed to be true for the single purpose of the administrator fulfilling responsibilities assigned to him or her by this article and for no other purpose.

(i)(1) If, after notice and opportunity for hearing, the administrator finds that any depository or agent of depository has violated or is violating, or that there is reasonable cause to believe that any depository or agent of depository is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued under any of those sections, the administrator may order the depository or agent of depository to cease and desist from the violation or may by order suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.

(2)(A) If the administrator makes any of the findings set forth in paragraph (1) with respect to any depository or agent of depository and, in addition, finds that the violation or the continuation of the violation is likely to seriously prejudice the interests of treasurers, the administrator may order the depository or agent of depository to cease and desist from the violation or may suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.

(B) Within five business days after an order is issued under subparagraph (a), the depository or agent of depository may file with the administrator an application for a hearing on the order. The administrator shall schedule a hearing at least *30* days, but not more than 40 days, after receipt of an application for a hearing or within a shorter or longer period of time agreed to by a depository or an agent of depository. If the administrator fails to schedule the hearing within the specified or agreed to time period, the order shall be deemed rescinded. Within 30 days

after the hearing, the administrator shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded. The right of a depository or agent of depository to which an order is issued under subparagraph (a) to petition for judicial review of the order shall not be affected by the failure of the depository or agent of depository to apply to the administrator for a hearing on the order pursuant to this subparagraph.

(3) Whenever the administrator issues a cease and desist order under paragraph (1) or (2), the administrator may in the order restrict the right of the depository to withdraw securities from a security pool; and, in that event, both the depository to which the order is directed and the agent of depository which holds the security pool shall comply with the restriction.

(4) In case the administrator issues an order under paragraph (1) or (2) suspending or revoking the authorization of an agent of depository, the administrator may order the agent of depository at its own expense to transfer all pooled securities held by it to such agent of depository as the administrator may designate in the order. The agent of depository designated in the order shall accept and hold the pooled securities in accordance with this article and regulations and orders issued under this article.

(j) In the discretion of the administrator, whenever it appears to the administrator that any person has violated or is violating, or that there is reasonable cause to believe that any person is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued thereunder, the administrator may bring an action in the name of the people of the State of California in the superior court to enjoin the violation or to enforce compliance with those sections or any regulation or order issued thereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and the court may not require the administrator to post a bond.

(k) In addition to other remedies, the administrator shall have the power and authority to impose the following sanctions for noncompliance with the sections specified in subdivision (a) after a hearing if requested by the party deemed in noncompliance. Any fine assessed pursuant to this subdivision shall be paid within 30 days after receipt of the assessment.

(1) Assess against and collect from a depository a fine not to exceed two hundred fifty dollars ($250) for each day the depository fails to maintain with the agent of depository securities as required by Section 53652.

(2) Assess against and collect from a depository a fine not to exceed one hundred dollars ($100) for each day beyond the time period specified in subdivision (b) of Section 53663 the depository negligently or willfully fails to file in the office of the administrator a written report required by that section.

(3) Assess against and collect from a depository a fine not to exceed one hundred dollars ($100) for each day beyond the time period specified in subdivision (e) that a depository negligently or willfully fails to file in the office of the administrator a written report required by that subdivision.

(4) Assess and collect from an agent of depository a fine not to exceed one hun-

dred dollars ($100) for each day the agent of depository fails to comply with any of the applicable sections specified in subdivision (a) or any applicable regulation or order issued thereunder.

(l)(1) In the event that a depository or agent of depository fails to pay a fine assessed by the administrator pursuant to subdivision (k) within 30 days of receipt of the assessment, the administrator may assess and collect an additional penalty of 5 percent of the fine for each month or part thereof that the payment is delinquent.

(2) If a depository fails to pay the fines or penalties assessed by the administrator, the administrator may notify local agency treasurers with deposits in the depository.

(3) If an agent of depository fails to pay the fines or penalties assessed by the administrator, the administrator may notify local agency treasurers who have authorized the agent of depository as provided in Sections 53649 and 53656, and may by order revoke the authorization of the agent of depository as provided in subdivision (i).

(m) The amendments to this section enacted by the Legislature during the 1999–2000 Regular Session shall become operative on January 1, 2001.

53663

(a) Each agent of depository shall report in writing to the administrator within two business days after any withdrawal, substitution or addition of pooled securities and shall state the name and market value of the securities withdrawn, substituted or added together with the total deposits then secured by the pool. This information shall be available from the administrator to the treasurer upon request.

(b) Each depository shall report in writing to the administrator weekly, giving the total amount of all deposits held by the depository pursuant to this article. The report shall be as of close of business on Wednesday of each week and shall be delivered to the office of the administrator, deposited in the United States mail, postage prepaid, or delivered electronically via email, or other electronic means approved by the administrator, addressed to the office of the administrator, within five business days. Where there has occurred no change in the deposits required to be held by the depository pursuant to this article, the report required by this subdivision need only state that fact.

53664

The individual reports specified in Sections 53654, 53660, 53661, and 53663 are not public documents and are not open to inspection by the public.

53665

If a depository fails to pay all or part of the deposits of a local agency secured by pooled securities in accordance with the contract provided for in Section 53649, and on demand of its treasurer or other authorized official and the treasurer files

a report with the administrator, or if the depository fails:

(a) In case the pooled securities consist of securities other than securities of the class described in subdivision (p) of Section 53651, the administrator shall order the agent of depository holding the pooled securities to convert into money that portion of the pooled securities necessary to produce an amount equal to the sum of (i) the deposits of the local agency, (ii) any accrued interest due on the deposits, and (iii) the reasonable expenses of the agent of depository in complying with the order of the administrator and to pay the sum of items (i) and (ii) to the treasurer in satisfaction of the deposits. The agent of depository shall be reimbursed out of the proceeds of the conversion for its reasonable expenses in complying with the order of the administrator, as approved by the administrator. Any excess moneys resulting from the conversion shall be retained by the agent of depository as part of the securities pool until the depository substitutes for the excess moneys securities having a market value sufficient to bring the total of pooled securities up to the amount required by Section 53652.

(b) In case the pooled securities consist of a security of the class described in subdivision (p) of Section 53651, the administrator shall draw on the letter of credit an amount equal to the sum of (i) the deposits of the local agency, (ii) any accrued interest on the deposits, and (iii) the reasonable expenses of the administrator in paying the deposits and pay the sum of items (i) and (ii) to the treasurer in satisfaction of the deposits.

53666

The only liability that shall attach to the administrator as the result of the operation of this article is that which would attach as a result of other laws of this state.

53667

(a) Expenses incurred by the administrator in carrying out the duties and responsibilities assigned to the administrator by the sections specified in subdivision (a) of Section 53661, shall be borne by the Local Agency Deposit Security Fund, which is hereby created and continuously appropriated to the administrator for the administration of the sections specified in subdivision (a) of Section 53661. This fund shall consist of fines levied pursuant to Section 53661, fees collected pursuant to the sections specified in subdivision (a) of Section 53661, and assessments levied pursuant to this section.

(b) Each fiscal year the administrator shall levy an assessment on a pro rata basis on those depositories which at any time during the preceding fiscal year held local agency deposits. The total assessment levied on all of those depositories shall be in an amount which, when added to the amount of fines and fees that the administrator estimates will be collected during the fiscal year when the assessment is levied, is sufficient in the judgment of the administrator to meet the expenses of the administrator in administering the sections specified in subdivision (a) of Section 53661 and to provide a reasonable reserve for contingencies. The basis of the apportionment of the assessment among the

depositories assessed shall be the proportion that the average amount of local agency deposits held by each of those depositories bears to the average total amount of local agency deposits held by all of those depositories as shown by the reports of depositories to the administrator for the preceding fiscal year, as required in subdivision (e) of Section 53661; provided, however, that the amount of the assessment levied on each of those depositories shall be not less than twenty-five dollars ($25).

(c) The administrator shall notify each depository by mail of the amount levied against it. The depository shall pay the amount levied within 20 days after such notice into the Local Agency Deposit Security Fund for the administration of the sections specified in subdivision (a) of Section 53661. If payment is not made to the administrator within such time, the administrator shall assess and collect, in addition to the annual assessment, a penalty of 5 percent of the assessment for each month or part thereof that the payment is delinquent. If a depository fails to pay the assessment or penalties assessed by the administrator, the administrator may notify local agency treasurers with deposits in the depository.

53669

The treasurer or other authorized official is not responsible for money while it is deposited pursuant to this article.

53676

The treasurer is not responsible for securities delivered to and receipted for by any bank, savings and loan association, credit union, federally insured industrial loan company, or trust company.

53678

The charges for the handling and safekeeping of any such securities are not a charge against the treasurer but shall be paid by the depository owning the securities.

53679

So far as possible, all money belonging to a local agency under the control of any of its officers or employees other than the treasurer shall, and money deposited as bail coming into the possession of a judge or officer of a superior court may, be deposited as active deposits in the state or national bank, inactive deposits in the state or national bank or state or federal association, federal or state credit union, or federally insured industrial loan company in this state selected by the officer, employee, or judge of the court. For purposes of this section, an officer or employee of a local agency and a judge or officer of a superior court are prohibited from depositing local agency funds or money coming into their possession into a state or federal credit union if an officer or employee of the local agency, or a judge or officer of a superior court, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or su-

pervisory committee, of the particular state or federal credit union. That money is subject to this article except:

(a) Deposits in an amount less than that insured pursuant to federal law are not subject to this article.

For deposits in excess of the amount insured under any federal law a contract in accordance with Section 53649 is required and the provisions of this article shall apply.

(b) Interest is not required on money deposited in an active deposit by a judge or officer of a superior court.

(c) Interest is not required on money deposited in an active deposit by an officer having control of a revolving fund created pursuant to Chapter 2 (commencing with Section 29300) of Division 3 of Title 3.

(d) Interest is not required on money deposited in an active deposit by an officer having control of a special fund established pursuant to Article 5 (commencing with Section 29400) or Article 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

53679.1

Notwithstanding any other provision of law, the accounting practices of each county utilized prior to the effective date of this section relating to interest on trust funds shall be deemed appropriate and to have been made under the direction of the board of supervisors of that county. This section is declaratory of the law in existence prior to the enactment of this section.

53680

A tax collector of a local agency shall immediately deposit with the treasurer all money under his control, unless he deposits the money in a depositary pursuant to this article under permission and instructions of the treasurer having authority to make such deposit.

53681

An officer or employee of a local agency who deposits money belonging to, or in the custody of, the local agency in any other manner than that prescribed in this article is subject to forfeiture of his office or employment.

53682

Notwithstanding any other provision in this article except Section 53652, the treasurer may deposit moneys in and enter into contracts with any depository, as defined in subdivision (c) of Section 53630, for services to be rendered by that depository that in the treasurer's judgment are to the public advantage. One copy of each contract entered into under this section shall be filed with the auditor or corresponding officer of the local agency. The contract shall:

(a) Fix the duration of compensating deposits, if any.

(b) Fix the interest rate of that compensating deposit, if any.

(c) Specify the services to be rendered by the depository.

(d) Indicate whether the depository shall bear the expenses of transportation of the money to and from the depository.

(e) Fix the consideration payable by the agency for such services.

(f) Specify who may deposit moneys into the treasurer's active account and how those persons are to make those deposits.

53683

Notwithstanding any other provision in this article, the consideration payable by the agency as specified in subdivision (e) of Section 53682 shall be paid by the treasurer by applying such consideration as costs applied on a pro rata basis against the interest earned by all the agencies for which the treasurer invests.

53684

(a) Unless otherwise provided by law, if the treasurer of any local agency, or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the treasurer or other official may, upon the adoption of a resolution by the legislative or governing body of the local agency authorizing the investment of funds pursuant to this section and with the consent of the county treasurer, deposit the excess funds in the county treasury for the purpose of investment by the county treasurer pursuant to Section 53601 or 53635, or Section 20822 of the Revenue and Taxation Code.

(b) The county treasurer shall, at least quarterly, apportion any interest or other increment derived from the investment of funds pursuant to this section in an amount proportionate to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool. In apportioning and distributing that interest or increment, the county treasurer may use the cash method, the accrual method, or any other method in accordance with generally accepted accounting principles. Prior to distributing that interest or increment, the county treasurer may deduct the actual costs incurred by the county in administering this section in proportion to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool.

(c) The county treasurer shall disclose to each local agency that invests funds pursuant to this section the method of accounting used, whether cash, accrual, or other, and shall notify each local agency of any proposed changes in the accounting method at least 30 days prior to the date on which the proposed changes take effect.

(d) The treasurer or other official responsible for the funds of the local agency

may withdraw the funds of the local agency pursuant to the procedure specified in Section 27136.

(e) Any moneys deposited in the county treasury for investment pursuant to this section are not subject to impoundment or seizure by any county official or agency while the funds are so deposited.

(f) This section is not operative in any county until the board of supervisors of the county, by majority vote, adopts a resolution making this section operative in the county.

(g) It is the intent of the Legislature in enacting this section to provide an alternative procedure to Section 51301 for local agencies to deposit money in the county treasury for investment purposes. Nothing in this section shall, therefore, be construed as a limitation on the authority of a county and a city to contract for the county treasurer to perform treasury functions for a city pursuant to Section 51301.

53686

(a) Any audit conducted relating to the investment of local agency funds and other funds by the county treasurer in the county fund maintained pursuant to Section 53684 shall be rendered to the depositary, the auditor, the controller, the secretary, or the corresponding officer of the local agency, the treasurer or other official responsible for the funds of any local agency that has funds on deposit in the county treasury, and the presiding judge of any superior court that has ordered, pursuant to Section 3412, Section 3413, or Section 3611 of the Probate Code, that assets of an estate be deposited with the county treasurer for deposit or investment.

(b) Any report rendered pursuant to Section 53646 shall be provided to the treasurer or other official responsible for the funds of any local agency that has funds on deposit in the county treasury.

Government Code Section 53820 – 53821.5

53820

As used in this article, "local agency" means county, city, regional park district, school district, community college district, or any other municipal or public corporation or district.

53821.

Subsequent to approval of the final budget and levy of taxes, if funds are needed for the immediate requirements of a local agency in any fiscal year to pay obligations lawfully incurred in the fiscal year and before the receipt of income for the

fiscal year sufficient to meet the payments, money may be borrowed by:

(a) The legislative body of a county on the recommendation of the auditor and treasurer.

(b) The legislative body of the county having the largest area within the regional park district on the recommendation of the auditor and treasurer.

(c) A school district, county board of education, or community college district on the request of two-thirds of the members of its governing board, approved by the county auditor and treasurer.

(d) A regional park district on the request of four-fifths of the members of its legislative body, approved by the auditor and treasurer of the county having the largest area within the district.

(e) The legislative body of a city on the recommendation of the city treasurer and chief accounting officer.

(f) The legislative body of any other municipal or public corporation or district on the recommendation of the officers performing the functions of auditor and treasurer.

53821.5

Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.

Government Code Section 53840-53841.5

53840

It is hereby declared the intention of the Legislature by the enactment of this article to provide an alternative procedure under which short term loans may be procured by those counties in which the board of supervisors has declared it to be county policy to make advances of current operating requirements to subsidiary political subdivisions required by law to deposit their funds in the county treasury as such advances are authorized by the provisions of Section 25 of Article XIII of the State Constitution. In any such county the board of supervisors, upon recommendation of the county treasurer with the approval of the county auditor, may borrow on July 1st or thereafter such amounts as may be required to meet current obligations payable by the county treasury, pending collection of the revenue provided for the year in progress. Amounts so borrowed shall be evidenced by notes signed by the chairman of the board of supervisors, the county auditor and the county treasurer, and the liability created thereby shall be secured by a lien on all revenue to accrue to the county treasury from any source during the year then in progress.

53841

Any amounts borrowed by a county as provided in the preceding section shall not

exceed 85 percent of the total of taxes levied for all purposes on said county's tax roll for the next preceding fiscal year, and at no time during the year for which borrowed shall the unpaid total of the amounts so borrowed as shown by the auditor's accounts at the close of any month be allowed to remain at more than 85 percent of the uncollected balance of taxes for the current year as shown by said accounts.

53841.5

Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.

Government Code Section 53850-53851.5

53850

(a) As used in this article, "local agency" means a county, city and county, city, school district of any type, community college district, county board of education, or any other municipal or public corporation or district.

(b) For purposes of this article only, "local agency" also includes a charter school. This subdivision does not make a charter school a local agency for any purpose other than for this article.

53851

The powers conferred by this article are in addition to and an alternative to any power conferred by any other law for borrowing by a local agency and any amount borrowed hereunder shall not be considered in any limitation on the amount which may be borrowed by any such local agency under any other law.

53852

On or after the first day of any fiscal year a local agency may borrow money pursuant to this article, the indebtedness to be represented by a note or notes issued to the lender pursuant to this article. The money borrowed may be used and expended by the local agency for any purpose for which the local agency is authorized to use and expend moneys, including but not limited to current expenses, capital expenditures, investment and reinvestment, and the discharge of any obligation or indebtedness of the local agency.

53852.5

Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.

53859

As used in this article: (a) "local agency" means county, city and county, city, school district, community college district, or any other municipal or public corporation or district.

(b) "Grant anticipation note" means a note issued upon the security of specified accounts receivable from state or federal governments, including, without limitation, grants, loans, or a combination of both, for which funds have been appropriated and committed to a local agency.

(c) "Loan" includes, but is not limited to, a borrowing by a local agency represented or to be represented by bonds of a local agency.

53859.01

The powers conferred by this article are in addition to and alternative to any powers conferred by any other law for borrowing by a local agency and any amount borrowed hereunder shall not be considered in any limitation on the amount which may be borrowed by any such local agency under any other law.

53859.02

(a) A local agency may borrow money pursuant to this article, the indebtedness to be represented by a grant anticipation note or notes issued to the lender pursuant to this article. The money borrowed may be used and expended by the local agency solely for the purpose for which the grant or loan is to be received.

(b) Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.

Government Code Section 53859-53859.02

Glossary

A

ACTIVE MANAGEMENT STRATEGY

Investment strategy based on a manager or a team of managers actively managing a fund's portfolio with the goal of outperforming benchmarks through analytical research, forecasts, and their own judgment and experience.

ACCRETION

The accumulation of value that occurs during the duration or time between a bond's issuance and maturity.

ACCRUED INTEREST

Coupon interest accumulated on a bond or note since the last interest payment or, for a new issue, from the dated date to the date of delivery.

AMORTIZATION OF COSTS

Reconciliation of the purchase price of a security and par value resulting in net interest.

ARBITRAGE

Transactions by which securities are bought and sold in different markets at the same time for the sake of the profit arising from a yield difference in the two markets. The 1986 Tax Reform Act made this practice by municipalities illegal solely as a borrowing tactic, except under certain safe-harbor conditions.

ASSET ALLOCATION

The division of an investment portfolio among different asset categories, such as stocks, bonds, and cash.

ASSET-BACKED SECURITIES

Securities that are supported by pools of assets, such as installment loans or leases, or by pools of revolving lines of credits. Asset-backed securities are structured as trusts in order to perfect a security interest in the underlying assets.

AVERAGE

An arithmetic mean of selected stocks intended to represent the behavior of the market or some component of it.

B

BANK DEPOSITS

Deposits in banks or other depository institutions that may be in the form of demand accounts (checking) or investments in accounts that have a fixed term and negotiated rate of interest.

BANK NOTES

A senior, unsecured, direct obligation of a bank or U. S. branch of a foreign bank.

BANKERS' ACCEPTANCE

A draft or bill or exchange accepted by a bank or trust company. The accepting institution, as well as the issuer, guarantees payment of the bill.

BASIS POINTS

Refers to the yield on bonds. Each percentage point of yield in bonds equals 100 basis points (1/100% or 0.01%). If a bond yield changes from 7.25% to 7.39%, that is a rate of 14 basis points.

BENCHMARK

A passive index used to compare the performance, relative to risk and return, of an investor's portfolio.

BOND PROCEEDS

The money paid to the issuer by the purchaser or underwriter of a new issue of municipal securities. These moneys are used to finance the project or purpose for which the securities were issued and to pay certain costs of issuance as may be provided in the bond contract.

BONDS

A debt obligation of a firm or public entity. A bond represents the agreement to repay the debt in principal and, typically, in interest on the principal.

BOOK RETURN

Book return includes interest, amortization/accretion of premiums/discounts, realized gains and losses, over a given period of time.

BOOK VALUE

The value at which an asset is carried on a balance sheet.

BROKER

A person or firm that acts as an intermediary by purchasing and selling securities for others rather than for its own account.

BUY AND HOLD STRATEGY

A strategy based on holding all securities until maturity, regardless of fluctuations in the market.

C

CALL OPTION

The terms of the bond contract giving the issuer the right to redeem or call an outstanding issue of bonds prior to its stated date of maturity.

CALL RISK

The risk to a bondholder that the bond issuer will exercise a callable bond feature and redeem the issue prior to maturity.

CALLABLE SECURITIES

An investment security that contains an option allowing the issuer to retire the security prior to its final maturity date.

CASH FLOW

A comparison of cash receipts (revenues) to required payments (debt service, operating expenses, etc.).

CERTIFICATE OF DEPOSIT

A short-term, secured deposit in a financial institution that usually returns principal and interest to the lender at the end of the loan period. Certificates of Deposit (CDs) differ in terms of collateralization and marketability. Those appropriate to public agency investing include:

Negotiable Certificates of Deposit

Generally, short-term debt instrument that usually pays interest and is issued by a bank, savings or federal association, state or federal credit union, or state-licensed branch of a foreign bank. The majority of negotiable CDs mature within six months while the average maturity is two weeks. Negotiable CDs are traded in a secondary market and are payable upon order to the bearer or initial depositor (investor). Negotiable CDs are insured by FDIC up to $250,000, but they are not collateralized beyond that amount.

Non-Negotiable Certificates of Deposit

CDs that carry a penalty if redeemed prior to maturity. A secondary market does exist for non-negotiable CDs, but redemption includes a transaction cost that reduces returns to the investor. Non-negotiable CDs issued by banks and savings and loans are insured by the Federal Deposit Insurance Corporation up to the amount of $250,000, including principal and interest. Amounts deposited above this amount may be secured with other forms of collateral through an agreement between the investor and the issuer. Collateral may include other securities including Treasuries or agency securities such as those issued by the Federal National Mortgage Association.

CDARS (CERTIFICATE OF DEPOSIT ACCOUNT REGISTRY SYSTEM)

A private CD placement service that allows local agencies to purchase more than $250,000 in CDs from a single financial institution (must be a participating institution of CDARS) while still maintaining FDIC insurance coverage. CDARS is currently the only entity providing this service. CDARS facilitates the trading of deposits between the California institution and other participating institutions in amounts that are less than $250,000 each, so that FDIC coverage is maintained.

CD PLACEMENT SERVICE

A service that allows local agencies to purchase more than $250,000 in CDs from a single financial institution while still maintaining FDIC insurance coverage. See “CDARS”.

COLLATERALIZATION OF DEPOSITS

Process by which a bank or financial institution pledges securities, or other deposits for the purpose of securing the repayment of deposited funds.

COMMERCIAL PAPER

An unsecured short-term promissory note issued by corporations or municipalities, with maturities ranging from 2 to 270 days.

CONVEXITY

A measure of the price sensitivity of a fixed income security to changes in interest rates. Convexity is influenced by such factors as the coupon rate, maturity, and any call options that may or may not exist. Prices rise at increasing rates as yields fall and prices decline at decreasing rates as yields rise.

CORPORATE NOTES AND BONDS

Debt instruments, typically unsecured, issued by corporations, with original maturities in most cases greater than one year and less than ten years.

COUNTY POOLED INVESTMENT FUNDS

The aggregate of all funds from public agencies placed in the custody of the county treasurer or chief finance officer for investment and reinvestment.

COUPON

The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value; a certificate attached to a bond evidencing interest due on a payment date.

CREDIT RATING

Various alphabetical and numerical designations used by credit rating or nationally recognized statistical rating organizations (NRSROs), institutional investors, Wall Street underwriters, and commercial rating companies to give relative indications of bond and note creditworthiness.

Long-term Ratings

The three most commonly used NRSROs are Standard & Poor's, Fitch Ratings, and Moody's. Standard & Poor's and Fitch Ratings use the same system, starting with their high¬est rating, of AAA, AA, A, BBB, BB, B, CCC, CC, C, and D for default. Moody's Investors Service uses Aaa, Aa, A, Baa, Ba, B, Caa, and Ca. Each of the services use pluses (+), minuses (-), or numerical modifiers to indicate steps within each category. The S&P ratings from AA to CCC may be modified by the addition of a plus (+) or minus (-) sign to show relative standing within the major rating categories. Moody's appends numerical modifiers 1, 2, and 3 to each generic rating classification from Aa through Caa. The modifier 1 indicates that the obligation ranks in the higher end of its generic rating category; the modifier 2 indicates a mid-range ranking; and the modifier 3 indicates a ranking in the lower end of that generic rating category. The top four letter categories are considered investment grade ratings.

Short-term Ratings

Standard & Poor's short-term ratings system is A-1+, A-3, B, C, and / for default. Fitch Ratings use F1+, F3, B, C, and / for default. Finally, Moody's uses P1 and P3, anything below P3 is considered not prime.

CREDIT RISK

The chance that an issuer will be unable to make scheduled payments of interest and principal on an outstanding obligation. Another concern for investors is that the market's perception of an issuer/borrower's credit will cause the market value of a security to fall, even if default is not expected.

CUSIP NUMBER

The Committee on Uniform Security Information Procedures (CUSIP) Number refers to a security's identification number assigned to each publicly traded security by the CUSIP Service Bureau operated by Standard & Poor's for the American Bankers Association. The CUSIP Number is a nine-character identifier unique to the issuer, the specific issue and the maturity, if applicable (the first six characters identifying the issuer, the next two identifying the security and the last digit providing a check digit to validate the accuracy of the preceding CUSIP number).

CUSTODIAN

A bank or other financial institution that keeps custody of stock certificates and other assets.

D

DEALER

Someone who acts as a principal in all transactions, including underwriting, buying, and selling securities, including from his/her own account.

DEFAULT RISK

The risk that issuers/borrowers will be unable to make the required payments on their debt obligations.

DEFEASED BOND ISSUES

Issues that have sufficient money to retire outstanding debt when due so that the agency is released from the contracts and covenants in the bond document.

DELIVERY VS. PAYMENT (DVP)

The payment of cash for securities as they are delivered and accepted for settlement.

DERIVATIVE

Securities that are based on, or derived from, some underlying asset, reference date, or index.

DISCOUNT

Discount means the difference between the par value of a security and the cost of the security, when the cost is below par. Investors purchase securities at a discount when return to the investor (yield) is higher than the stated coupon (interest rate) on the investment.

DISCOUNT RATE

The interest rate used in discounted cash flow (DCF) analysis to determine the present value of future cash flows. The discount rate in DCF analysis takes into account not just the time value of money, but also the risk or uncertainty of future cash flows; the greater the uncertainty of future cash flows, the higher the discount rate.

DIVERSIFICATION

The allocation of different types of assets in a portfolio to mitigate risks and improve overall portfolio performance.

DURATION

A measure of the timing of the cash flows to be received from a security that provides the foundation for a measure of the interest rate sensitivity of a bond. Duration is a volatility measure and represents the approximate percentage change in price divided by the percentage change in interest rates. A high duration measure indicates that for a given level of movement in interest rates, prices of securities will vary considerably.

E

EFFECTIVE DURATION

Duration measures the weighted average of the present value of the cash flows of a fixed-income investment. Effective duration measures the price sensitivity of fixed-income investments, especially for those with embedded option features such as call options. As yields rise, the effective duration of a callable investment rises to reflect the fact that it has become less likely to be called. The more rates rise, the longer the effective duration will become, approaching the duration to maturity. The converse is true in a declining interest rate environment (that is, the more rates fall, the shorter the effective duration will become, approaching the duration to call). For securities without an embedded option, the duration to call, maturity, and effective duration

are all the same. The calculation for effective duration is complicated and involves averaging the duration under a simulation of many possible interest rate scenarios in the future.

EVENT RISK

The risk associated with a changing portfolio value due to a market event causing swings in market prices and/or spreads.

EXTENDABLE NOTES

Securities with maturity dates that can be extended by mutual agreement between the issuer and investor. When investing in these types of securities, the maturity date plus the stated extendable option must not exceed the time frames that are allowed in California Government Code or the investment policy for the investment type.

F

FIDUCIARY

An individual who holds something in trust for another and bears liability for its safekeeping.

FIRST TIER SECURITIES

Securities that have received short-term debt ratings in the highest category from the requisite nationally recognized statistical-rating organizations (NRSROs), or are comparable unrated securities, or are issued by money market funds, or government securities. [See SEC Rules: Paragraph (A)(12) of rule 2A-7.]

FLOATING RATE SECURITY

A security that has a variable or "floating" interest rate.

G

GOVERNMENT ACCOUNTING STANDARDS BOARD (GASB)

A standard-setting body, associated with the Financial Accounting Foundation, which prescribes standard accounting practices for governmental units.

GOVERNMENT SPONSORED ENTERPRISES (GSE)

Privately held corporations with public purposes created by the U.S. Congress to reduce the cost of capital for certain borrowing sectors of the economy. Securities issued by GSEs carry the implicit backing of the U.S. Government, but they are not direct obligations of the U.S. Government. For this reason, these securities will offer a yield premium over Treasuries.

GUARANTEED INVESTMENT CONTRACT (GIC)

An agreement acknowledging receipt of funds for deposit, specifying terms for withdrawal, and guaranteeing a rate of interest to be paid.

I

IRMA

An independent registered municipal advisor (IRMA) is registered as a municipal advisor with the SEC and MSRB and has a fiduciary duty to the issuer(s) that he/she advises on the issuance of municipal securities and investment of the proceeds of issued debt.

IRMA EXEMPTION

Pursuant to the Municipal Advisor Rule (MA Rule), underwriters may provide advice to municipal issuers only where certain exceptions or

exemptions apply. The Independent Registered Municipal Advisor Exemption (IRMA Exemption) applies where: (1) the issuer has retained an IRMA that is not recently associated (within the last two years of seeking to use the exemption) with the underwriter, (2) the underwriter receives a written notice from the issuer that they are represented by the IRMA and will rely on their advice, and the underwriter can reasonably rely on that notice, and (3) the underwriter provides a written notice to the issuer and IRMA stating that the underwriter is not a municipal advisor and has no fiduciary duty to the issuer, and the issuer must have adequate time to review that notice.

INDEX

An index is an indicator that is published on a periodic basis that shows the estimated price and/or yield levels for various groups of securities.

INTEREST

The amount a borrower pays to a lender for the use of his or her money.

INTEREST RATE RISK

Interest rate risk is the risk that an investment's value will change due to a change in the absolute level of interest rates, spread between two rates, shape of the yield curve, or any other interest rate relationship.

INVESTMENT AGREEMENTS

Investment agreements are contracts with respect to funds deposited by an investor. Investment agreements are often separated into those offered by banks and those offered by insurance companies. In the former case, they are sometimes referred to as "bank investment contracts."

INVESTMENT OVERSIGHT COMMITTEE

A committee of three to eleven members formed under Section 27131 to monitor and review a county's investment policy by causing an annual audit and discussing its finding at an open meeting. Although cities and other local agencies are not required to compose an investment oversight committee, the State Legislature has declared that all local agencies "should participate in reviewing the policies that guide the investment of those funds."

INSTITUTIONAL ACCOUNT

As defined by the Financial Industry Regulatory Authority (FINRA), an institutional account includes one of the following: (1) a bank, savings and loan association, insurance company or registered investment company; (2) an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions); or (3) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

L

LIBOR

Acronym for "London Interbank Offered Rate," which represents the average rate at which a leading bank can obtain unsecured funding in the London interbank market. LIBOR serves as a benchmark for various interest rates. Obligations of parties to such transactions are typically expressed as a spread to LIBOR.

LIQUIDITY

The measure of the ability to convert an instrument to cash on a given date at full face or par value.

LIQUIDITY RISK

The risk that a security, sold prior to maturity, will be sold at a loss of value. For a local agency, the liquidity risk of an individual investment may not be as critical as how the overall liquidity of the portfolio allows the agency to meet its cash needs.

LOCAL AGENCY INVESTMENT FUND

A voluntary investment fund open to government entities and certain non-profit organizations in California that is managed by the State Treasurer's Office.

LOCAL GOVERNMENT INVESTMENT POOL (LGIP)

Investment pools that range from the State Treasurer's Office Local Agency Investment Fund (LAIF) to county pools, to Joint Powers Authorities (JPAs). These funds are not subject to the same SEC rules applicable to money market mutual funds.

M

MARKET RISK

The chance that the value of a security will decline as interest rates rise. In general, as interest rates fall, prices of fixed income securities rise. Similarly, as interest rates rise, prices fall. Market risk also is referred to as systematic risk or risk that affects all securities within an asset class similarly.

MARKET VALUE

The price at which a security is trading and presumably could be purchased or sold at a particular point in time.

MATURITY

The date on which the principal or stated value of an investment becomes due and payable.

MEDIUM-TERM NOTE

Corporate or depository institution debt securities meeting certain minimum quality standards (as specified in the California Government Code) with a remaining maturity of five years or less.

MONEY MARKET MUTUAL FUNDS

MMF's are mutual funds that invest exclusively in short-term money market instruments. MMF's seek the preservation of capital as a primary goal while maintaining a high degree of liquidity and providing income representative of the market for short term investments.

MORTGAGE BACKED SECURITIES

Mortgage-backed securities (MBS) are created when a mortgagee or a purchaser of residential real estate mortgages creates a pool of mortgages and markets undivided interests or participations in the pool. MBS owners receive a prorata share of the interest and principal cash flows (net of fees) that are "passed through" from the pool of mortgages. MBS are complex securities whose cash flow is determined by the characteristics of the mortgages that are pooled together. Investors in MBS face prepayment risk associated with the option of the underlying mortgagors to pre-pay or payoff their mortgage. Most MBS are issued and/or guaranteed by federal

agencies and instrumentalities (e.g., Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), and Federal Home Loan Mortgage Corporation (FHLMC)).

MORTGAGE PASS-THROUGH OBLIGATIONS

Securities that are created when residential mortgages (or other mortgages) are pooled together and undivided interests or participations in the stream of revenues associated with the mortgages are sold.

MUNICIPAL ADVISOR RULE (MA RULE)

A regulation of non-dealer "municipal advisors" such as financial advisors, swap advisors, GIC brokers, etc. In addition, the rule pertains to banks and broker dealers acting as municipal advisors. Municipal advisors have a fiduciary responsibility to the government agency receiving their services and they must register with the Securities Exchange Commission (SEC). Municipal finance professionals that do not have a fiduciary duty to issuers cannot provide advice to governments unless certain exemptions are met. The SEC has published a list of frequently asked questions: **www.sec.gov/info/municipal/mun-advisors-faqs.pdf**.

MUNICIPAL NOTES, BONDS, AND OTHER OBLIGATIONS

Obligations issued by state and local governments to finance capital and operating expenses.

MUTUAL FUNDS

An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments.

N

NET ASSET VALUE

Net asset value (NAV) is a term used in the mutual fund industry to determine the average price per share of a pool or mutual fund. How this measure varies over time provides information on whether the pool is stable or variable. NAV is the market value of all securities in a mutual fund, less the value of the fund's liabilities, divided by the number of shares in the fund outstanding. Shares of mutual funds are purchased at the fund's offered NAV.

NET PRESENT VALUE

An amount that equates future cash flows with their value in present terms.

NEW ISSUE

Securities sold during the initial distribution of an issue in a primary offering by the underwriter or underwriting syndicate.

NOTE

A written promise to pay a specified amount to a certain entity on demand or on a specified date. Usually bearing a short-term maturity of a year or less (though longer maturities are issued—see "Medium-Term Note").

O

OPTIONS

An option is a contract that gives the buyer the right to buy or sell an obligation at a specified price for a specified time. Exchange Traded Options are standardized option contracts that are actively traded on the Chicago Board of Exchange on a daily basis whereas Over-the-Counter Options are traded directly between the

buyer and seller at agreed upon prices and conditions (the former type of option is therefore more liquid than the latter).

P

PAR AMOUNT OR PAR VALUE

The principal amount of a note or bond which must be paid at maturity. Par, also referred to as the "face amount" of a security, is the principal value stated on the face of the security. A par bond is one sold at a price of 100 percent of its principal amount.

PLACEMENT SERVICE CERTIFICATES OF DEPOSIT

Certificates of deposit placed with a private sector entity that assists in the placement of certificates of deposit with eligible financial institutions located in the United States.

PLACEMENT SERVICE DEPOSIT

Deposits at depository institutions placed by a private sector placement service entity.

PORTFOLIO

Combined holding of more than one stock, bond, commodity, real estate investment, cash equivalent, or other asset. The purpose of a portfolio is to reduce risk by diversification.

PREMIUM

Premium means the difference between the par value of a security and the cost of the security, when the cost is above par. Investors pay a premium to purchase a security when the return to the investor (yield) is lower than the stated coupon (interest rate) on the investment.

PRICE

Price is the amount of monetary consideration required by a willing seller and a willing buyer to sell an investment on a particular date.

PRINCIPAL

The face value or par value of a debt instrument, or the amount of capital invested in a given security.

PROSPECTUS

A disclosure document that must be provided to any prospective purchaser of a new securities offering registered with the SEC that typically includes information on the issuer, the issuer's business, the proposed use of proceeds, the experience of the issuer's management, and certain certified financial statements (also known as an "official statement").

PRUDENT INVESTOR STANDARD

A standard of conduct where a person acts with care, skill, prudence, and diligence when investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing funds. The test of whether the standard is being met is if a prudent person acting in such a situation would engage in similar conduct to ensure that investments safeguard principal and maintain liquidity.

R

REINVESTMENT RISK

The risk that interest rates may be lower than the yield on a fixed income security when the investor seeks to reinvest interest income or repaid principal from the security.

REPURCHASE AGREEMENTS

An agreement of one party (for example, a financial institution) to sell securities to a second party (such as a local agency) and simultaneous agreement by the first party to repurchase the securities at a specified price from the second party on demand or at a specified date.

REVERSE REPURCHASE AGREEMENTS

An agreement of one party (for example, a financial institution) to purchase securities at a specified price from a second party (such as a public agency) and a simultaneous agreement by the first party to resell the securities at a specified price to the second party on demand or at a specified date.

RISK

The uncertainty of maintaining the principal or interest associated with an investment due to a variety of factors.

RULE G-37 OF THE MUNICIPAL SECURITIES RULEMAKING BOARD

Federal regulations to sever any connection between the making of political contributions and the awarding of municipal securities business.

S

SAFEKEEPING SERVICE

Offers storage and protection of assets provided by an institution serving as an agent.

SAFETY

In the context of investing public funds, safety relates to preserving the principal of an investment in an investment portfolio; local agencies address the concerns of safety by controlling exposure to risks.

SECURITIES AND EXCHANGE COMMISSION (SEC)

The federal agency responsible for supervising and regulating the securities industry.

SECURITIES LENDING AGREEMENT

An agreement of one party (for example, a local agency) to borrow securities at a specified price from a second party (for example, another local agency) with a simultaneous agreement by the first party to return the security at a specified price to the second party on demand or at a specified date. These agreements generally are collateralized and involve a third party custodian to hold the securities and collateral. Economically similar to reverse repurchase agreement.

SUPRANATIONAL INSTITUTIONS

International institutions formed by two or more governments that transcend boundaries to pursue mutually beneficial economic or social goals. There are three supranational institutions that issue obligations that are eligible investments for California local agencies: the International Bank for Reconstruction and Development (IBRD), International Finance Corporation (IFC), and Inter-American Development Bank (IADB).

T

TAX AND REVENUE ANTICIPATION NOTES (TRANS)

Notes issued in anticipation of receiving tax proceeds or other revenues at a future date.

TOTAL RETURN

Total return includes interest, realized gains and losses, and unrealized gains and losses over a given period of time.

TRUSTEE, TRUST COMPANY OR TRUST DEPARTMENT OF A BANK

A financial institution with powers to act in a fiduciary capacity for the benefit of the bondholders in enforcing the terms of the bond contract.

U

UNDERWRITER

A dealer that purchases a new issue of municipal securities for resale.

U.S. TREASURY OBLIGATIONS

Debt obligations of the U.S. Government sold by the Treasury Department in the forms of bills, notes, and bonds. Bills are short-term obligations that mature in one year or less and are sold at a discount. Notes are obligations that mature between one year and ten years. Bonds are long-term obligations that generally mature in ten years or more.

W

WEIGHTED AVERAGE MATURITY (WAM)

The average maturity of all the securities that comprise a portfolio, typically expressed in days or years.

Y

YIELD

The current rate of return on an investment security generally expressed as a percentage of the securities current price.

YIELD CURVE

A graphic representation that shows the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity.

YIELD-TO-CALL

The rate of return to the investor earned from payments of principal and interest, with interest compounded semi-annually at the stated yield when the security is redeemed on a specified call date. In addition, if the security is redeemed at a premium call price, the amount of the premium is also reflected in the yield.

YIELD-TO-MATURITY

The rate of return to the investor earned from payments of principal and interest, with interest compounded semi-annually at the stated yield as long as the security remains outstanding until the maturity date.

YIELD-TO-WORST

For a given dollar price on a municipal security, the lowest of the yield calculated to the pricing call, par option or maturity.

Z

ZERO-COUPON BOND

A bond on which interest is not payable until maturity (or earlier redemption), but compounds periodically to accumulate to a stated maturity amount. Zero-interest bonds are typically issued at a discount and repaid at par upon maturity.

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