COUNTY ADVISORY BULLETIN
CAB
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BULLETIN 2018-04 **SEPTEMBER 2018**

CHANGES TO THE COUNTY INVESTMENT LAW

APPLICABLE LEGISLATION: HB 251 and SB 163

SPONSORS OF SB 163: Sen. Wilson

Sens. Terhar, Beagle, Williams, Eklund, Huffman, Hackett, Coley, Uecker, Brown, Bacon, Balderson, Burke, Dolan, Gardner, Hite, Hoagland, Hottinger, Jordan, Kunze, Lehner, Manning, Obhof, O'Brien, Oelslager, Schiavoni, Skindell, Tavares, Thomas

Reps. Dever, Hughes, Brenner, Anielski, Boyd, Craig, Gavarone, Green, Hambley, Holmes, Manning, Miller, Patton, Perales, Reineke, Rezabek, Rogers, Romanchuk, Ryan, Scherer, Thompson, West, Wiggam, Young

SPONSORS OF HB 251: Rep. Greenspan

Reps. Hambley, Stein, Dever, Anielski, Antonio, Arndt, Ashford, Barnes, Boyd, Brown, Carfagna, Galonski, Gavarone, Ginter, Green, Hill, Holmes, Howse, Lang, Leland, Lepore-Hagan, Manning, Miller, Patton, Reinke, Retherford, Rezabek, Riedel, Rogers, Ryan, Schaffer, Schuring, Seitz, Sheehy, Slaby, K. Smith, R. Smith, Sprague, Sweeney, Thompson, West, Wiggam, Young, Rosenberger

Sens. Eklund, Beagle, Burke, Coley, Dolan, Gardner, Hackett, Hoagland, Huffman, LaRose, O'Brien, Oelslager, Schiavoni, Thomas, Williams, Wilson

EFFECTIVE DATES: August 1, 2018 (HB 251)
September 28, 2018 (SB 163)

GENERAL INFORMATION

Senate Bill 163 amends Ohio Revised Code Section 135.35 to modify the qualifications regarding notes eligible for investment of county inactive moneys. The bill changes two elements of current law. First, it expands the categories of domestic corporate and U.S. depository institution bonds in which a county may invest its inactive funds by allowing a county to invest in bonds rated in the three highest credit rating categories, rather than the two highest under prior law. Second, it permits a county to invest its inactive funds in bonds with a maturity date that is no more than three years, rather than two years under prior law, from the date of purchase.

House Bill 251 amends sections 135.14 and 135.35 of the Revised Code to increase from five to ten years the maturity period of other political subdivision's bonds and obligations eligible for investment of a subdivision's interim moneys, a county's inactive moneys, and money in the county public library fund.

MODIFICATION OF RULES FOR INVESTMENT IN CORPORATE AND BANK NOTES

Continuing law defines eleven classifications of financial instruments in which a county may invest its inactive funds. For corporate notes, the law allows a county to invest up to 15% of its total average portfolio in notes issued by corporations that are incorporated under the laws of the United States and that are operating within the United States, or by depository institutions that are doing business under authority granted by the United States or any state and that are operating within the United States. The bill extends the allowable credit ratings of these financial instruments to include the third highest rating category from the three national credit rating agencies (ORC 135.35(A)(9)). The third-highest rating means A1, A2 and A3 for Moody's, and A+, A and A- for Standard and Poor's and Fitch. In addition, the bill extends the allowable maturity of these notes from two years to three years from the date of purchase.

MODIFICATION OF RULES FOR INVESTMENT IN STATE OR POLITICAL SUBDIVISION BONDS

As a general rule, a county must invest its inactive funds in financial instruments that have a maturity of five years or less from the date of purchase, unless the investment is matched to a specific obligation or debt of the county and the investment is approved by the county investment committee. HB 251 creates an exception to this rule for bonds issued by the State of Ohio or by political subdivisions located within the state (ORC 135.35(A)(4)). For these Ohio bonds, maturity may extend up to 10 years from the date of purchase.

COUNTY INVESTMENT AUTHORITY AND COUNTY INVESTMENT ADVISORY COMMITTEE (ORC 135.31, 135.34, 135.341)

Information in this section is included as a reminder of how the investment process works and the role county commissioners play in determining investment policy. Under continuing Ohio law, not amended by either bill, the county treasurer is designated as the investing authority of the county. A county investment advisory committee is also established in each county under law and is composed of:

1. Two county commissioners designated by the board of county commissioners and the county treasurer, or
2. All three county commissioners, the county treasurer and the clerk of the court of common pleas.

The purpose of the county investment advisory committee is to establish written county investment policies. It must meet at least once every three months, to review or revise the investment policies and to advise the county treasurer on the county investments in order to ensure the best and safest return of funds. The committee's policies may establish a limit on the period of time that moneys may be invested in any particular type of investment.

The county investment advisory committee is authorized to contract with an investment advisor, provided that the advisor is licensed by the division of securities or is registered with the securities and exchange commission, and possesses public funds investment management experience, specifically in the area of state and local government investment portfolios, or the advisor is an eligible institution mentioned in ORC Section 135.03.

Finally, the law allows the board of county commissioners to semiannually review the investment procedures of the county treasurer. If it is determined that the county treasurer has failed to invest the inactive moneys of the county as provided by law, or is in documented substantial, material, and continuing disregard of the advice or written policies of the county investment advisory committee, the board of county commissioners provides written notice to the county treasurer of its finding. If the county treasurer's procedures have not been corrected by the time of the next semiannual review, the commissioners may remove the treasurer's authority to act as the investing authority of the county and appoint a new investing authority. This action must be taken by resolution. Commissioners then have three options to designate a new investing authority: (1) the board of county commissioners as a whole; (2) one of its members; or (3) one of its employees. The new investing authority remains in place until rescinded by the commissioners.

CONCLUSION

In conclusion, these two bills provide permissive authority to expand the categories of private sector bonds in which counties may invest their inactive funds. They also extend the allowable maturity dates for private sector bonds to three years, and to ten years for State of Ohio and political subdivision bonds.