

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1176

Introduced by Dungan, 26; Jacobson, 42.

Read first time January 12, 2024

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to public investment; to amend section
2 77-2341, Reissue Revised Statutes of Nebraska; to adopt the Public
3 Entities Pooled Investment Act; to change provisions relating to the
4 investment of surplus by governmental subdivisions; and to repeal
5 the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Public Entities Pooled Investment Act.

3 Sec. 2. For purposes of the Public Entities Pooled Investment Act:

4 (1) Bank means a state-chartered or federally chartered bank which
5 has a main chartered office in this state, any branch thereof in this
6 state, or any branch in this state of a state-chartered or federally
7 chartered bank which maintained a main chartered office in this state
8 prior to becoming a branch of such state-chartered or federally chartered
9 bank;

10 (2) Capital stock financial institution means a capital stock state
11 building and loan association, a capital stock federal savings and loan
12 association, a capital stock federal savings bank, or a capital stock
13 state savings bank, which has a main chartered office in this state, any
14 branch thereof in this state, or any branch in this state of a capital
15 stock financial institution which maintained a main chartered office in
16 this state prior to becoming a branch of such capital stock financial
17 institution;

18 (3) Eligible entity means any governmental, public, or quasi-public
19 entity, joint public agency created pursuant to the Joint Public Agency
20 Act, or joint entity created pursuant to the Interlocal Cooperation Act,
21 located in the state, including, but not limited to, an entity designated
22 as a political subdivision, vested with taxing authority, or whose
23 membership is wholly comprised by such entities and funds created by such
24 entities. Eligible entity does not include the State of Nebraska or any
25 department, division, office, board, commission, or other agency of the
26 state, or any court, constitutional office, or elected or appointed
27 officer of the state;

28 (4) Eligible investment means:

29 (a) Obligations, including letters of credit, of any agency or
30 instrumentality of the United States, including bonds, debentures, or
31 notes issued by the Federal Home Loan Bank System;

1 (b) Direct obligations of or other obligations the principal of and
2 interest on which are guaranteed by the United States or its agencies or
3 instrumentalities, including collateralized mortgage obligations and
4 obligations that are fully guaranteed or insured by the Federal Deposit
5 Insurance Corporation or by the full faith and credit of the United
6 States;

7 (c) Direct obligations of the state, its agencies, and
8 instrumentalities receiving an investment quality rating by a nationally
9 recognized investment rating firm not less than A or its equivalent at
10 the time of purchase;

11 (d) Obligations of other states, agencies, counties, cities, and
12 political subdivisions of any state receiving an investment quality
13 rating by a nationally recognized investment rating firm not less than A
14 or its equivalent at the time of purchase;

15 (e) Commercial paper, if such commercial paper:

16 (i) Is issued by a United States corporation;

17 (ii) Has a stated maturity of two hundred seventy days or fewer from
18 its date of issuance;

19 (iii) Is rated in the highest quality category by at least two
20 nationally recognized rating agencies;

21 (iv) Is limited to no more than forty percent of the total funds
22 available for investment by a local government investment pool; and

23 (v) Is limited to no more than five percent of the total funds
24 available for investment by a local government investment pool being
25 invested in the commercial paper of a single issuer;

26 (f) Fully collateralized repurchase agreements, if such agreements:

27 (i) Have a defined termination date;

28 (ii) Are secured by a combination of cash and obligations of the
29 United States, its agencies, or its instrumentalities;

30 (iii) Require securities purchased by the trust or cash held by the
31 trust to be pledged to the trust, held in the trust's name, and deposited

1 at the time the investment is made with the trust or with a third party
2 selected and approved by the trust; and

3 (iv) Are invested through a primary government securities dealer, as
4 defined by the Board of Governors of the Federal Reserve System, or a
5 financial institution; and

6 (g) Certificates of deposit and time deposit open accounts in banks,
7 capital stock financial institutions, or qualifying mutual financial
8 institutions;

9 (5) Local government investment pool means an investment pool or
10 trust created pursuant to the laws of this state, including, but not
11 limited to, the Interlocal Cooperation Act, for the purpose of pooling
12 and investing the funds of two or more eligible entities; and

13 (6) Qualifying mutual financial institution has the same meaning as
14 in section 77-2365.01.

15 Sec. 3. An eligible entity may invest its funds and funds under its
16 control through a local government investment pool if the governing body
17 of the eligible entity by ordinance or resolution authorizes investment
18 in the pool. A local government investment pool may only invest the funds
19 it receives from eligible entities in eligible investments.

20 Sec. 4. A local government investment pool shall display and
21 include in all advertising, in all marketing materials, and on any
22 Internet website or mobile application it maintains the following
23 conspicuous statements:

24 (1) Investments in a local government investment pool are not
25 insured or guaranteed by the Federal Deposit Insurance Corporation or any
26 other government agency; and

27 (2) Investments in a local government investment pool are subject to
28 liquidity risk, which may impact the pool's ability to sell investments
29 in a timely fashion or at near face value in order to fulfill a
30 participant's redemption request. Such investments are also subject to
31 market risk, issuer risk, and default risk. Participants may lose money

1 by investing in a local government investment pool.

2 Sec. 5. The general investment strategy for a local government
3 investment pool shall be to invest all funds of eligible entities to
4 accomplish the following objectives, which are listed in order of
5 priority:

6 (1) Preservation and safety of principal;

7 (2) Liquidity; and

8 (3) Yield.

9 Sec. 6. Any agent, employee, or representative of an investment
10 advisor acting on behalf of a local government investment pool who
11 solicits, purchases, or sells securities or eligible investments on
12 behalf of the local government investment pool shall hold and maintain a
13 Financial Industry Regulatory Authority Series 6 or Series 7 license.

14 Sec. 7. Section 77-2341, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 77-2341 (1) Whenever any county, city, village, or other
17 governmental subdivision, other than a school district, of the State of
18 Nebraska has accumulated a surplus of any fund in excess of its current
19 needs or has accumulated a sinking fund for the payment of its bonds and
20 the money in such sinking fund exceeds the amount necessary to pay the
21 principal and interest of any such bonds which become due during the
22 current year, the governing body of such county, city, village, or other
23 governmental subdivision may invest any such surplus in excess of current
24 needs or such excess in its sinking fund in certificates of deposit, in
25 time deposits, and in any securities in which the state investment
26 officer is authorized to invest pursuant to the Nebraska Capital
27 Expansion Act and the Nebraska State Funds Investment Act and as provided
28 in the authorized investment guidelines of the Nebraska Investment
29 Council in effect on the date the investment is made. The state
30 investment officer shall upon request furnish a copy of current
31 authorized investment guidelines of the Nebraska Investment Council.

1 (2) Whenever any school district of the State of Nebraska has
2 accumulated a surplus of any fund in excess of its current needs or has
3 accumulated a fund for the payment of bonds and the money in such fund
4 exceeds the amount necessary to pay the principal and interest of any
5 such bonds which become due during the current year, the board of
6 education of such school district may invest any such surplus in excess
7 of current needs or such excess in the bond fund in securities in which
8 such board of education is authorized to invest pursuant to section
9 79-1043.

10 (3) Nothing in subsection (1) of this section shall be construed to
11 restrict investments authorized pursuant to section 14-563.

12 (4) Nothing in subsections (1), (2), and (3) of this section shall
13 be construed to authorize investments in venture capital or to expand the
14 investment authority of a local government investment pool under the
15 Public Entities Pooled Investment Act.

16 Sec. 8. Original section 77-2341, Reissue Revised Statutes of
17 Nebraska, is repealed.