

No. 1982-113

AN ACT

SB 1010

Amending the act of April 9, 1929 (P.L.343, No.176), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," further providing for investment of funds by the Treasury Department.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 301.1, act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," added June 19, 1961 (P.L.468, No.235), amended June 18, 1968 (P.L.215, No.102), July 11, 1980 (P.L.554, No.115) and July 1, 1981 (P.L.187, No.54), is amended to read:

Section 301.1. Investment of Moneys.—(a) The Treasury Department may, from time to time, invest in direct short-term obligations of the United States government such amounts of the moneys of the Commonwealth, with the exception of moneys in any fund authorized by law to be invested by any board, commission or State officer, on deposit from time to time in State depositories, as shall have accumulated beyond the ordinary needs of various funds. The Treasury Department shall, from time to time as necessary, sell such short-term obligations and deposit the proceeds in State depositories as provided by this act. The Treasury Department shall not, at any one time, have invested in short-term obligations of the United States government more than an aggregate of such total sum as the Board of Finance and Revenue shall, by resolution, with the Governor's approval, have prescribed.

(b) The Treasury Department may, from time to time, invest its excess funds in United States Treasury and United States Agency obligations, with a maturity of up to and including two years.

[(b)] (c) The Treasury Department may, from time to time, subject to the hereinafter stated conditions and limitations, invest and reinvest the moneys of any fund as shall have accumulated beyond the ordinary needs of the various funds, and which are not authorized by law to be invested by any board, commission or State officer in **[prime rated]** commercial paper.

As used herein, "commercial paper" shall mean unsecured promissory notes issued **[at a discount from par by any industrial, common carrier or finance company, and**

"Prime commercial paper" shall mean notes issued by corporations whose credit has been approved by the National Credit Office, Inc., New York, or its successor.

The Treasury Department shall have obtained the following, prior to any commitment to purchase commercial paper:

(1) A certification or other evidence that such commercial paper is rated prime by the National Credit Office, Inc.;

(2) A certification or other evidence that the paper proposed to be delivered is not subordinated to any other debt of the issuer;

(3) A certification or other evidence that there is no litigation pending or threatened affecting said paper;

(4) A certification or other evidence that the issuer is not in default as to the payment of principal or interest upon any of its outstanding obligations; and

(5) A certification or other evidence that the issuer was incorporated within the United States, is transacting business within the United States, and has assets of one billion dollars or more, or is a wholly owned subsidiary of a Pennsylvania corporation having assets of one billion dollars or more] *either in discount or interest-bearing form by any industrial, common carrier, or finance company and must bear Moody's Credit Service "Prime One Rating," or the equivalent by Standard and Poor's or Fitch's Rating Service.*

The Treasury Department shall not, at any time, have invested in **[prime]** commercial paper more than an aggregate of such total sum as the Board of Finance and Revenue shall, by resolution, with the Governor's approval, have prescribed.

[(c)] (d) The Treasury Department may, from time to time pursuant to regulations adopted by the Board of Finance and Revenue invest and reinvest such moneys of any fund as shall be accumulated beyond the ordinary needs of the various funds and which are not authorized by law to be invested by any other board or commission or State officer by purchasing certificates of deposit from commercial banks domiciled in this Commonwealth up to the level equal to twenty per centum of such bank's total capital and surplus. Certificates of deposit may likewise be purchased from savings and loan associations *or savings banks* domiciled in the Commonwealth up to a level equal to twenty per centum of such association's *or savings bank's* assets minus liabilities. Such certificates of deposit need not be collateralized. In applying the proceeding limita-

tion on investments in certificates of deposit, the Treasury Department must include the similar investments of the State Employees' Retirement Board and the Public School Employees' Retirement Board. The Treasury Department shall not at anytime have invested in uncollateralized certificates of deposit more than the total amount authorized by resolution of the Board of Finance and Revenue and approved by the Governor. The Treasury Department shall purchase certificates of deposit under this subsection pursuant to procedures established in regulations by the Board of Finance and Revenue and shall take into account the differences, if any, in competitive bids, the financial strength of each of the bidders and the services provided to or at the request of the Commonwealth and any of its departments, agencies or bureaus by each of the bidders.

[(d)] (e) The Treasury Department may from time to time enter into repurchase agreements secured by Federal obligations.

(f) *The Treasury Department may, from time to time, invest its excess funds in Banker's Acceptances.*

As used herein, "Banker's Acceptances" shall mean short term trade financing agreements secured by the accepting bank and the goods being purchased, and shall be limited to domestic banks whose parent companies bear a Moody's Credit Service "AA Rating," or the equivalent by Standard and Poor's or Fitch's Rating Service.

(g) *Notwithstanding any limitations, conditions or restrictions imposed on the making of investments by this act, except those contained in subsection (h), and notwithstanding any limitations, conditions or restrictions imposed by any other law, the Treasury Department may, at its discretion, invest a maximum of ten per centum of the book value of the assets of the fund in any investments except common stock not otherwise specifically authorized.*

(h) *All investments allowed under this section must be made with the exercise of that degree of judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the funds, considering the probable income to be derived therefrom as well as the probable safety of their capital.*

Section 2. This act shall take effect in 60 days.

APPROVED—The 7th day of May, A. D. 1982.

DICK THORNBURGH