

No. 1982-258

AN ACT

HB 1193

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," further providing for investment of funds.

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

Section 1. Section 511, act of August 9, 1955 (P.L.323, No.130), known as "The County Code," is repealed.

Section 2. Section 1706 of the act, added April 18, 1978 (P.L.57, No.27), is amended to read:

Section 1706. Investment of Funds.—(a) The county commissioners [or any individual who serves in an elective county office may invest such county moneys not otherwise required or authorized by law to be invested that their office is required to collect, administer or disburse by depositing such moneys in interest-bearing accounts in institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the Federal Savings and Loan Insurance Corporations, or by investing in United States Government obligations or United States guaranteed obligations. The term of any investment shall not extend beyond the term of office of the county official who made the investment. In no event shall any monetary disbursement required by law or contract be delayed or withheld for the purpose of gaining any return on an investment. All accrued interest on the investments shall be paid to the county treasurer for deposit into the general fund of the county except where otherwise provided by law.] *(or any individual other than the commissioners who serves in an elective county office, as to such moneys not otherwise required by law to be invested that his office is required to collect, administer or disburse) shall invest such moneys consistent with sound business practice, subject, however, to the exercise of that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence, who are familiar with such matters, 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.*

(b) The commissioners shall provide for an investment program, including temporary investments, subject to restrictions contained in this act and in any other applicable statute and any rules and regulations adopted by the commissioners. Other elective officials authorized to make investments under subsection (a) shall make investments in con-

formity with the commissioners investment program.

(c) Authorized types of investments for such moneys shall be:

- (1) United States Treasury bills.*
- (2) Short-term obligations of the United States Government or its agencies or instrumentalities.*
- (3) Deposits in savings accounts or time deposits, other than certificates of deposit, or share accounts of institutions having their principal place of business in the Commonwealth and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund or the Pennsylvania Deposit Insurance Corporation or the Pennsylvania Savings Association Insurance Corporation to the extent that such accounts are so insured, and, for any amounts above the insured maximum, provided that approved collateral as provided by law therefore shall be pledged by the depository.*
- (4) Obligations of the United States of America or any of its agencies or instrumentalities backed by the full faith and credit of the United States of America, the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the Commonwealth, or of any political subdivision of the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision.*
- (5) Shares of an investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, provided that the only investments of that company are in the authorized investments for county funds listed in clauses (1) through (4).*
- (6) Certificates of deposit purchased from institutions having their principal place of business in the Commonwealth and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund or the Pennsylvania Deposit Insurance Corporation or the Pennsylvania Savings Association Insurance Corporation to the extent that such accounts are so insured, however, for any amounts above the insured maximum, such certificates of deposit shall be collateralized by a pledge or assignment of assets of the institution, and such collateral may include loans (including interest in pools of loans) secured by first mortgage liens on real property. Certificates of deposit purchased from commercial banks shall be limited to an amount equal to twenty per centum of a bank's total capital and surplus. Certificates of deposit purchased from savings and loan associations or savings banks shall be limited to an amount equal to twenty per centum of an institutions assets minus liabilities.*
- (7) Certificates of deposit purchased from institutions having their principal place of business outside the Commonwealth and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund to the extent that such accounts are so insured, and, for any*

amounts above the insured maximum, provided that approved collateral as provided by law therefore shall be pledged by the depository. Certificates of deposit purchased from commercial banks shall be limited to an amount equal to twenty per centum of a bank's total capital and surplus. Certificates of deposit purchased from savings and loan associations or savings banks shall be limited to an amount equal to twenty per centum of an institution's assets minus liabilities.

(8) Any investment authorized by 20 Pa.C.S. Ch. 73 (relating to fiduciaries investments) shall be an authorized investment for any pension or retirement fund.

(9) "Commercial paper" and "prime commercial paper" as provided for in subsection (d).

(d) As used herein "commercial paper" shall mean unsecured promissory notes issued at a discount from par by any industrial, common carrier, public utility or finance company and "prime commercial paper" shall mean notes issued by corporations whose credit has been approved by the National Credit Office, Incorporated, New York, or its successor. The treasurer 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, Incorporated.

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

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

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

(5) A certificate 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 (\$1,000,000,000) or more, or is a wholly owned subsidiary of a Pennsylvania corporation having assets of one billion dollars (\$1,000,000,000) or more.

(6) The treasurer shall not, at any time, have invested in prime commercial paper more than an aggregate of such total sum as the board shall have prescribed.

(e) In making investments of county funds, the commissioners (or other elected officials when authorized as provided in subsection (a)) shall have authority:

(1) To permit assets pledged as collateral under subsection (c)(3), to be pooled in accordance with the act of August 6, 1971 (P.L.281, No.72), entitled "An act standardizing the procedures for pledges of assets to secure deposits of public funds with banking institutions pursuant to other laws; establishing a standard rule for the types, amounts and valuations of assets eligible to be used as collateral for deposits of public funds; permitting assets to be pledged against deposits on a pooled basis; and authorizing the appointment of custodians to act as pledgees of assets," relating to pledges of assets to secure deposits of public funds.

(2) To combine moneys from more than one fund under county control for the purchase of a single investment, provided that each of the funds combined for the purpose shall be accounted for separately in all respects and that the earnings from the investment are separately and individually computed and recorded and credited to the accounts from which the investment was purchased.

(3) To join with one or more other political subdivisions and municipal authorities in accordance with the act of July 12, 1972 (P.L. 762, No. 180), entitled "An act relating to intergovernmental cooperation," in the purchase of a single investment, provided that the requirements of clause (2) on separate accounting of individual funds and separate computation, recording and crediting of the earnings therefrom are adhered to.

Section 3. Section 1762 of the act, amended November 19, 1968 (P.L. 1075, No. 328), is amended to read:

Section 1762. Depositories.—(a) The county commissioners together with the county treasurer shall, from time to time, designate, by resolution, a depository or depositories for all county funds *to be deposited*. Such depository or depositories shall be banks, banking institutions or trust companies, located in the Commonwealth.

(b) Depositories so designated shall, upon receipt of notice of their selection as a depository of county funds, furnish a bond to secure payment of deposits and any interest to the county, secured by a surety company, or by the depositing in escrow of securities to be approved by the county commissioners. The parties may, by agreement, provide for substitution of securities so held in escrow, the securities in every case to be approved by the commissioners. Such bonds shall be in a sum to be fixed by resolution of the county commissioners. The depository shall not be required to furnish a bond or deposit securities in escrow to secure payment of deposits and interest insured by the Federal Deposit Insurance Corporation.

(c) The county treasurer shall, upon the designation of such depository or depositories, immediately, transfer thereto all county funds *to be deposited*, and shall, thereafter, keep such deposits solely in such depository or depositories in the name of the county. **[Withdrawals from such depository shall be only, upon properly authorized checks, drawn by the county treasurer.] Withdrawals from such depository shall be only drawn by the treasurer, upon properly authorized checks or by other commercially accepted methods of electronic funds transfer which have been specifically approved by the board of commissioners.**

(d) Neither county commissioners nor treasurer complying with the provisions of this section, nor their surety or sureties, shall be chargeable with losses of county funds caused by the failure or negligence of such depository or depositories.

Section 4. Section 1794 of the act is repealed.

Section 5. Section 1795 of the act is amended to read:

Section 1795. **[Deposits of Money Received; Interest.—All moneys received by the commission at any time shall immediately be deposited in**

one or more banks or banking institutions which are now or hereafter shall be designated as county depositories, and the provisions of this article regarding county depositories shall apply with regard to the deposits of the commission in said county depositories. The rate of interest to be paid by depositories to the commission shall be the highest rate obtainable, calculated on daily balances. The commission may reinvest said interest with the other income from the bonds in their possession.] *Investment of Sinking Fund Moneys.—The commission shall have power to make investment of county sinking funds as authorized by the act of July 12, 1972 (P.L.781, No.185), known as the “Local Government Unit Debt Act”, and liquidate any such investment, in whole or in part, by disposing of securities or withdrawing funds on deposit. Any action taken to make or to liquidate any investment shall be made by the commission.*

Section 6. This act shall take effect in 60 days.

APPROVED—The 13th day of December, A. D. 1982.

DICK THORNBURGH