

No. 1982-259

AN ACT

HB 1194

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; 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 1963, act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," is amended to read:

Section 1963. Designation and Qualification of Depositories.—At said meeting or at any subsequent meeting agreed upon, said board shall designate the depositories and the rate of interest to be paid by them to the county.

Depositories so designated shall, upon receipt of notice of their selection as a depository of county funds, furnish collateral to secure payment of deposits and interest to the county by depositing in escrow securities to be approved by the board. Such securities shall be of the kind and in the amount to be fixed by the board. Substitution of such securities may be made with the approval of the board in each case. The board may designate a branch bank of the Federal Reserve Bank of the district, located within the county, as escrow agent for the keeping of securities and to perform such functions as the board may prescribe.

The county treasurer, upon the designation of such depository or depositories, shall 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 drawn by the treasurer upon properly authorized checks or by other commercially accepted methods for county fund transfers.*

Section 2. Section 1964 of the act, added November 5, 1971 (P.L.516, No.124), is amended to read:

Section 1964. Investment of Moneys.—(a) The county treasurer shall have the power, subject to *subsection (b)* and the hereinafter stated conditions and limitations, to invest and reinvest the moneys of the general fund and special funds as shall have accumulated beyond the ordinary needs of said various funds, and which are not authorized by law to be invested by any board, commission or county officer, **[in the following type investments:**

(1) **In any and all obligations of the United States, of this Commonwealth, or of any municipality or other political subdivision of this Commonwealth, registered or otherwise as to principal and interest.**

(2) **Savings accounts or share accounts of institutions insured by the**

Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to the extent that such accounts are so insured.

(3) In one or more banks or bank and trust companies in one or more special accounts, and each of such special accounts to the extent the same is not insured shall be continuously secured by a pledge of direct obligations of the United States of America or of the Commonwealth or of any of its political subdivisions having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account.

(b) 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; and

(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.

(c) A Board of Investment is hereby created. Said board shall be composed of three members, to wit: the treasurer, who shall act as chairman of the board; the chairman of the county commissioners; and the controller. 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. Two members of the board shall be sufficient for a quorum, provided reasonable notice of the meeting has been given to all board members.

(d) All income earned on any of the aforesaid investments shall inure to the benefit of the county and shall be placed in the general fund.] *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) A Board of Investment is hereby created. Said board shall be

composed of three members, to wit: the treasurer, who shall act as a chairman of the board; the chairman of the county commissioners; and the controller. The board 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 board. County boards, commissions or other county officers authorized to make investments under subsection (a) shall make investments in conformity with the board's investment program.

(c) Authorized types of investments for county funds 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 (20%) 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 (20%) of an institution's 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 (20%) 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 (20%) of an institution's assets minus liabilities.

(8) Any investment authorized by 20 Pa.C.S. Chapter 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 county treasurer (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.

(f) All income earned on any of the aforesaid investments shall inure to the benefit of the county and shall be placed in the general fund.

Section 3. Section 1994 of the act is repealed.

Section 4. Section 1995 of the act is amended to read:

Section 1995. [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. 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 5. This act shall take effect in 60 days.

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

DICK THORNBURGH