

AN ACT

To amend sections 135.14, 135.143, 135.22, 135.35, and 321.46 of the Revised Code to permit subdivision or county treasurers to invest in certain no-load money market mutual funds in the absence of a written investment policy on behalf of the subdivision or county or in the cases of exemptions from or noncompliance with specified initial or continuing education requirements by the subdivision or county treasurer; and to modify the authority of the Treasurer of State to invest state interim funds in securities lending agreements.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 135.14, 135.143, 135.22, 135.35, and 321.46 of the Revised Code be amended to read as follows:

Sec. 135.14. (A) As used in this section, "treasurer" does not include the treasurer of state, and "governing board" does not include the state board of deposit.

(B) The treasurer or governing board may invest or deposit any part or all of the interim moneys. The following classifications of obligations shall be eligible for such investment or deposit:

(1) United States treasury bills, notes, bonds, or any other obligation or security issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States.

Nothing in the classification of eligible obligations set forth in division (B)(1) of this section or in the classifications of eligible obligations set forth in divisions (B)(2) to (6) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible obligations.

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality, including but not limited to, the federal national mortgage association, federal home loan

bank, federal farm credit bank, federal home loan mortgage corporation, government national mortgage association, and student loan marketing association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

(3) Interim deposits in the eligible institutions applying for interim moneys as provided in section 135.08 of the Revised Code. The award of interim deposits shall be made in accordance with section 135.09 of the Revised Code and the treasurer or the governing board shall determine the periods for which such interim deposits are to be made and shall award such interim deposits for such periods, provided that any eligible institution receiving an interim deposit award may, upon notification that the award has been made, decline to accept the interim deposit in which event the award shall be made as though ~~such~~ the institution had not applied for such interim deposit.

(4) Bonds and other obligations of this state;

(5) No-load money market mutual funds consisting exclusively of obligations described in division (B)(1) or (2) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.03 of the Revised Code;

(6) The Ohio subdivision's fund as provided in section 135.45 of the Revised Code.

(C) Nothing in the classifications of eligible obligations set forth in divisions (B)(1) to (6) of this section shall be construed to authorize any investment in a derivative, and no treasurer or governing board shall invest in a derivative. For purposes of this division, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (B)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.

(D) Any investment made pursuant to this section must mature within five years from the date of settlement, unless the investment is matched to a specific obligation or debt of the subdivision.

(E) The treasurer or governing board may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.03 of the Revised Code or any eligible dealer pursuant to division (M) of this section, under the terms of which agreement the treasurer or governing board purchases, and such institution or dealer agrees unconditionally to repurchase any of the securities listed in division (B)(1) or (2) of this section. The market value of securities subject to an overnight repurchase agreement must exceed the principal value of the overnight repurchase agreement by at least two per cent. A term repurchase agreement shall not exceed thirty days and the market value of securities subject to a term repurchase agreement must exceed the principal value of the term repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the treasurer or governing board or an agent designated by the treasurer or governing board. A repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution or dealer shall provide all of the following information:

- (1) The par value of the securities;
- (2) The type, rate, and maturity date of the securities;
- (3) A numerical identifier generally accepted in the securities industry that designates the securities.

No treasurer or governing board shall enter into a written repurchase agreement under the terms of which the treasurer or governing board agrees to sell securities owned by the subdivision to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(F) No treasurer or governing board shall make an investment under this section, unless the treasurer or governing board, at the time of making the investment, reasonably expects that the investment can be held until its maturity.

(G) No treasurer or governing board shall pay interim moneys into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established for the purpose of investing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:

- (1) The Ohio subdivision's fund pursuant to division (B)(6) of this section;
- (2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority

provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

For purposes of division (G) of this section, "subdivision" includes a county.

(H) The use of leverage, in which the treasurer or governing board uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities that have not yet been acquired by the treasurer or governing board, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(I) Whenever, during a period of designation, the treasurer classifies public moneys as interim moneys, the treasurer shall notify the governing board of such action. ~~Such~~ The notification shall be given within thirty days after such classification and in the event the governing board does not concur in such classification or in the investments or deposits made under this section, the governing board may order the treasurer to sell or liquidate any of such investments or deposits, and any such order shall specifically describe the investments or deposits and fix the date upon which they are to be sold or liquidated. Investments or deposits so ordered to be sold or liquidated shall be sold or liquidated for cash by the treasurer on the date fixed in such order at the then current market price. Neither the treasurer nor the members of the board shall be held accountable for any loss occasioned by sales or liquidations of investments or deposits at prices lower than their cost. Any loss or expense incurred in making such sales or liquidations is payable as other expenses of the treasurer's office.

(J) If any investments or deposits purchased under the authority of this section are issuable to a designated payee or to the order of a designated payee, the name of the treasurer and the title of the treasurer's office shall be so designated. If any such securities are registrable either as to principal or interest, or both, then such securities shall be registered in the name of the treasurer as such.

(K) The treasurer is responsible for the safekeeping of all documents evidencing a deposit or investment acquired by the treasurer under this section. Any securities may be deposited for safekeeping with a qualified trustee as provided in section 135.18 of the Revised Code, except the delivery of securities acquired under any repurchase agreement under this section shall be made to a qualified trustee, provided, however, that the qualified trustee shall be required to report to the treasurer, governing board, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each

security, and that if the participating institution is a designated depository of the subdivision for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the subdivision. Interest earned on any investments or deposits authorized by this section shall be collected by the treasurer and credited by the treasurer to the proper fund of the subdivision.

Upon the expiration of the term of office of a treasurer or in the event of a vacancy in the office of treasurer by reason of death, resignation, removal from office, or otherwise, the treasurer or the treasurer's legal representative shall transfer and deliver to the treasurer's successor all documents evidencing a deposit or investment held by the treasurer. For the investments and deposits so transferred and delivered, such treasurer shall be credited with and the treasurer's successor shall be charged with the amount of money held in such investments and deposits.

(L) Whenever investments or deposits acquired under this section mature and become due and payable, the treasurer shall present them for payment according to their tenor, and shall collect the moneys payable thereon. The moneys so collected shall be treated as public moneys subject to sections 135.01 to 135.21 of the Revised Code.

(M)(1) All investments, except for investments in securities described in divisions (B)(5) and (6) of this section and for investments by a municipal corporation in the issues of such municipal corporation, shall be made only through a member of the national association of securities dealers, through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.

(2) Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, governing board, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

(N)(1) Except as otherwise provided in divisions (N)(2) and (3) of this section, no treasurer or governing board shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the treasurer or governing board. The policy shall require that all entities conducting investment business with the treasurer or governing board shall sign the investment policy of that

subdivision. All brokers, dealers, and financial institutions, described in division (M)(1) of this section, initiating transactions with the treasurer or governing board by giving advice or making investment recommendations shall sign the treasurer's or governing board's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (M)(1) of this section, executing transactions initiated by the treasurer or governing board, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

(2) If a written investment policy described in division (N)(1) of this section is not filed on behalf of the subdivision with the auditor of state, the treasurer or governing board of that subdivision shall invest the subdivision's interim moneys only in interim deposits pursuant to division (B)(3) of this section, no-load money market mutual funds pursuant to division (B)(5) of this section, or the Ohio subdivision's fund pursuant to division (B)(6) of this section.

(3) Divisions (N)(1) and (2) of this section do not apply to a treasurer or governing board of a subdivision whose average annual portfolio of investments held pursuant to this section is one hundred thousand dollars or less, provided that the treasurer or governing board certifies, on a form prescribed by the auditor of state, that the treasurer or governing board will comply and is in compliance with the provisions of sections 135.01 to 135.21 of the Revised Code.

(O) A treasurer or governing board may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration to settle any controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the treasurer or governing board is located.

For purposes of this division, "investment or deposit agreement" means any agreement between a treasurer or governing board and a person, under which agreement the person agrees to invest, deposit, or otherwise manage a subdivision's interim moneys on behalf of the treasurer or governing board, or agrees to provide investment advice to the treasurer or governing board.

(P) An investment made by the treasurer or governing board pursuant to this section prior to ~~the effective date of this amendment~~ September 27, 1996, that was a legal investment under the law as it existed before ~~the effective date of this amendment~~ September 27, 1996, may be held until maturity, or if the investment does not have a maturity date, it may be held until five years from ~~the effective date of this amendment~~ September 27, 1996, regardless of whether the investment would qualify as a legal investment under the terms of this section as amended.

Sec. 135.143. (A) The treasurer of state may invest or execute transactions for any part or all of the interim funds of the state in the following classifications of obligations:

(1) United States treasury bills, notes, bonds, or any other obligations or securities issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States;

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality;

(3) Bonds and other obligations of the sinking fund of the state of Ohio and the Ohio public facilities commission;

(4)(a) Written repurchase agreements with any eligible Ohio financial institution that is a member of the federal reserve system or federal home loan bank or any recognized United States government securities dealer, under the terms of which agreement the treasurer of state purchases and the eligible financial institution or dealer agrees unconditionally to repurchase any of the securities that are listed in division (A)(1) or (2) of this section and that will mature or are redeemable within ten years from the date of purchase. The market value of securities subject to these transactions must exceed the principal value of the repurchase agreement by an amount specified by the treasurer of state, and the securities must be delivered into the custody of the treasurer of state or the qualified trustee or agent designated by the treasurer of state. The agreement shall contain the requirement that for each transaction pursuant to the agreement, the participating institution or dealer shall provide all of the following information:

(i) The par value of the securities;

(ii) The type, rate, and maturity date of the securities;

(iii) A numerical identifier generally accepted in the securities industry that designates the securities.

(b) The treasurer of state also may sell any securities, listed in division (A)(1) or (2) of this section, regardless of maturity or time of redemption of the securities, under the same terms and conditions for repurchase, provided

that the securities have been fully paid for and are owned by the treasurer of state at the time of the sale.

(5) Securities lending agreements with any eligible financial institution that is a member of the federal reserve system or federal home loan bank or any recognized United States government securities dealer, under the terms of which agreement the treasurer of state lends securities and the eligible financial institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value;

Securities and cash received as collateral for a securities lending agreement are not interim funds of the state. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in such instruments specified by the treasurer of state in accordance with a written investment policy.

(6) Various forms of commercial paper issued by any corporation that is incorporated under the laws of the United States or a state, which such notes are rated in the two highest categories by two nationally recognized rating agencies, provided that the total amount invested in commercial paper at any time shall not exceed five per cent of the state's total average portfolio, as determined and calculated by the treasurer of state;

(7) Bankers acceptances, maturing in two hundred seventy days or less, which are eligible for purchase by the federal reserve system, provided that the total amount invested in bankers acceptances at any time shall not exceed ten per cent of the state's total average portfolio, as determined and calculated by the treasurer of state;

(8) Certificates of deposit in eligible institutions applying for interim moneys as provided in section 135.08 of the Revised Code, including linked deposits as provided in sections 135.61 to 135.67 of the Revised Code, agricultural linked deposits as provided in sections 135.71 to 135.76 of the Revised Code, and depressed economic area linked deposits as provided in sections 135.81 to 135.88 of the Revised Code;

(9) The state treasurer's investment pool authorized under section 135.45 of the Revised Code;

(10) Debt interests rated investment grade by a nationally recognized rating agency and issued by corporations that are incorporated under the laws of the United States or a state, or issued by foreign nations diplomatically recognized by the United States government, or any instrument based on, derived from, or related to such interests. All interest and principal shall be denominated and payable in United States funds. The investments made under division (A)(10) of this section shall not exceed in the aggregate five per cent of the state's total average portfolio, as

determined and calculated by the treasurer of state. The investments made under division (A)(10) of this section in debt interests issued by foreign nations shall not exceed in the aggregate one per cent of the state's total average portfolio. The investments made under division (A)(10) of this section in the debt interests of a single issuer shall not exceed in the aggregate one-half of one per cent of the state's total average portfolio.

The treasurer of state shall invest under division (A)(10) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation. For purposes of division (A)(10) of this section, a debt interest is rated investment grade by a nationally recognized rating agency if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, investment grade by a nationally recognized rating agency.

(11) No-load money market mutual funds consisting exclusively of obligations described in division (A)(1) or (2) of this section and repurchase agreements secured by such obligations.

(12) Obligations of a board of education issued under authority of section 133.10 or 133.301 of the Revised Code.

(B) Whenever, during a period of designation, the treasurer of state classifies public moneys as interim moneys, the treasurer of state shall notify the state board of deposit of such action. Such notification shall be given within thirty days after such classification and in the event the state board of deposit does not concur in such classification or in the investments or deposits made under this section, the board may order the treasurer of state to sell or liquidate any of such investments or deposits, and any such order shall specifically describe the investments or deposits and fix the date upon which they are to be sold or liquidated. Investments or deposits so ordered to be sold or liquidated shall be sold or liquidated for cash by the treasurer of state on the date fixed in such order at the then current market price. Neither the treasurer of state nor the members of the state board of deposit shall be held accountable for any loss occasioned by sales or liquidations of investments or deposits at prices lower than their cost. Any loss or expense incurred in making such sales or liquidations is payable as other expenses of the treasurer's office.

(C) If any securities or obligations invested in by the treasurer of state pursuant to this section are registrable either as to principal or interest, or both, such securities or obligations shall be registered in the name of the treasurer of state.

(D) The treasurer of state is responsible for the safekeeping of all securities or obligations under this section. Any such securities or

obligations may be deposited for safekeeping as provided in section 113.05 of the Revised Code.

(E) Interest earned on any investments or deposits authorized by this section shall be collected by the treasurer of state and credited by the treasurer of state to the proper fund of the state.

(F) Whenever investments or deposits acquired under this section mature and become due and payable, the treasurer of state shall present them for payment according to their tenor, and shall collect the moneys payable thereon. The moneys so collected shall be treated as public moneys subject to sections 135.01 to 135.21 of the Revised Code.

(G) The treasurer of state and any board of education issuing obligations referred to in division (A)(12) of this section may enter into an agreement providing for:

(1) The purchase of those obligations by the treasurer of state on terms and subject to conditions set forth in the agreement;

(2) The payment by the board of education to the treasurer of state of a reasonable fee as consideration for the agreement of the treasurer of state to purchase those obligations; provided, however, that the treasurer of state shall not be authorized to enter into any such agreement with the board of education of a school district that has an outstanding obligation with respect to a loan received under authority of section 3313.483 of the Revised Code.

(H) For purposes of division (G) of this section, a fee shall not be considered reasonable unless it is set to recover only the direct costs and a reasonable estimate of the indirect costs associated with the purchasing of obligations of a school board under division (G) of this section and any reselling of the obligations or any interest in the obligations, including interests in a fund comprised of the obligations. No money from the general revenue fund shall be used to subsidize the purchase or resale of these obligations.

(I) All money collected by the treasurer of state from the fee imposed by division (G) of this section shall be deposited to the credit of the state school board obligations fund, which is hereby created in the state treasury. Money credited to the fund shall be used solely to pay the treasurer of state's direct and indirect costs associated with purchasing and reselling obligations of a board of education under division (G) of this section.

Sec. 135.22. (A) For purposes of this section:

(1) "Treasurer" has the same meaning as in section 135.01 of the Revised Code, but does not include the treasurer of state. "Treasurer" includes any person whose duties include making investment decisions with respect to the investment or deposit of interim moneys.

(2) "Subdivision" has the same meaning as in section 135.01 of the Revised Code.

(B) To enhance the background and working knowledge of treasurers in investments, cash management, and ethics, the treasurer of state shall provide annual continuing education programs for treasurers. A treasurer annually shall complete the continuing education programs described in this section, unless the treasurer annually provides a notice of exemption described in division (E) of this section.

(C) The treasurer of state shall determine the manner, content, and length of the continuing education programs after consultation with appropriate statewide organizations of local government officials.

(D) Upon successful completion of a continuing education program required by this section, the treasurer of state shall issue a certificate indicating that the treasurer has successfully completed the continuing education program prescribed by the treasurer of state. The treasurer of state shall forward to the auditor of state any certificates issued pursuant to this division by the treasurer of state. The auditor of state shall maintain in the auditor's records any certificates forwarded by the treasurer of state pursuant to this division. As part of the auditor of state's audit of the subdivision conducted in accordance with section 117.11 of the Revised Code, the auditor of state shall report whether the treasurer is in compliance with this section of the Revised Code.

(E) Division (B) of this section does not apply to any treasurer who annually provides a notice of exemption to the auditor of state. The notice shall be certified by the treasurer of state and shall provide that the treasurer is not subject to the continuing education requirements set forth in division (B) of this section, because the treasurer invests or deposits public moneys in the following investments only:

(1) Interim deposits pursuant to division (B)(3) of section 135.14 of the Revised Code;

(2) No-load money market mutual funds pursuant to division (B)(5) of section 135.14 of the Revised Code;

(3) The Ohio subdivision's fund pursuant to division (B)(6) of section 135.14 of the Revised Code.

(F) In carrying out the duties required by this section, the treasurer of state may charge the subdivision served by the treasurer a registration fee that will meet actual and necessary expenses in connection with the training of the treasurer, including instruction fees, site acquisition costs, and the cost of course materials. Any necessary personal expenses of a treasurer incurred as a result of attending the continuing education courses shall be

borne by the subdivision represented by the treasurer.

(G) The treasurer of state may allow any other interested person to attend any of the continuing education programs that are held pursuant to this section, provided that before attending any such continuing education program, the interested person has paid to the treasurer of state the full registration fee set for the continuing education program.

(H) All funds collected pursuant to this section shall be paid into the county treasurer education fund created pursuant to section 321.46 of the Revised Code, and the actual and necessary expenses of the treasurer of state in conducting the continuing education programs required by this section shall be paid from this fund.

(I) The treasurer of state may adopt reasonable rules not inconsistent with this section for the implementation of this section.

Sec. 135.35. (A) The investing authority shall deposit or invest any part or all of the county's inactive moneys and shall invest all of the money in the county library and local government support fund when required by section 135.352 of the Revised Code. The following classifications of securities and obligations are eligible for such deposit or investment:

(1) United States treasury bills, notes, bonds, or any other obligation or security issued by the United States treasury or any other obligation guaranteed as to principal or interest by the United States.

Nothing in the classification of eligible securities and obligations set forth in division (A)(1) of this section or in the classifications of eligible securities and obligations set forth in divisions (A)(2) to (9) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible securities and obligations.

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality, including but not limited to, the federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation, government national mortgage association, and student loan marketing association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

(3) Time certificates of deposit or savings or deposit accounts, including, but not limited to, passbook accounts, in any eligible institution mentioned in section 135.32 of the Revised Code;

(4) Bonds and other obligations of this state or the political subdivisions of this state, provided that such political subdivisions are located wholly or partly within the same county as the investing authority;

(5) No-load money market mutual funds consisting exclusively of

obligations described in division (A)(1) or (2) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.32 of the Revised Code;

(6) The Ohio subdivision's fund as provided in section 135.45 of the Revised Code;

(7) Securities lending agreements with any eligible institution mentioned in section 135.32 of the Revised Code that is a member of the federal reserve system or federal home loan bank, under the terms of which agreements the investing authority lends securities and the eligible institution agrees to simultaneously exchange either securities described in division (A)(1) or (2) of this section or cash or both securities and cash, equal value for equal value;

(8) Commercial paper issued by any corporation incorporated under the laws of the United States or a state if both of the following conditions apply:

(a) Two nationally recognized rating agencies rank the commercial paper in either of their two highest categories;

(b) The total amount invested in commercial paper at any time does not exceed five per cent of the county's total average portfolio, as determined and calculated by the investing authority.

(9) Bankers acceptances, if the following conditions are met:

(a) The acceptances mature in two hundred seventy days or fewer from the date of settlement;

(b) The acceptances are eligible for purchase by the federal reserve system;

(c) The total amount invested in bankers acceptances at any time does not exceed ten per cent of the county's total average portfolio, as determined and calculated by the investing authority.

(B) Nothing in the classifications of eligible obligations and securities set forth in divisions (A)(1) to (9) of this section shall be construed to authorize investment in a derivative, and no investing authority shall invest any county inactive moneys or any moneys in a county library and local government support fund in a derivative. For purposes of this division, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in this section with a

variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (A)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.

(C) Any investment made pursuant to this section must mature within five years from the date of settlement, unless the investment is matched to a specific obligation or debt of the county, and the investment is specifically approved by the investment advisory committee.

(D) The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.32 of the Revised Code or any eligible securities dealer pursuant to division (J) of this section, under the terms of which agreement the investing authority purchases and the eligible institution or dealer agrees unconditionally to repurchase any of the securities listed in division (A)(1) or (2) of this section. The market value of securities subject to an overnight repurchase agreement must exceed the principal value of the overnight repurchase agreement by at least two per cent. A term repurchase agreement must exceed the principal value of the overnight repurchase agreement, by at least two per cent. A term repurchase agreement shall not exceed thirty days, and the market value of securities subject to a term repurchase agreement must exceed the principal value of the term repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority. A repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution shall provide all of the following information:

- (1) The par value of the securities;
- (2) The type, rate, and maturity date of the securities;
- (3) A numerical identifier generally accepted in the securities industry that designates the securities.

No investing authority shall enter into a written repurchase agreement under the terms of which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(E) No investing authority shall make an investment under this section, unless the investing authority, at the time of making the investment, reasonably expects that the investment can be held until its maturity. The

investing authority's written investment policy shall specify the conditions under which an investment may be redeemed or sold prior to maturity.

(F) No investing authority shall pay a county's inactive moneys or moneys of a county library and local government support fund into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established by the subdivision, treasurer, governing board, or investing authority for the purpose of investing or depositing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:

(1) The Ohio subdivision's fund pursuant to division (A)(6) of this section;

(2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

For purposes of division (F) of this section, "subdivision" includes a county.

(G) The use of leverage, in which the county uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities not owned by the county, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(H) Any securities, certificates of deposit, deposit accounts, or any other documents evidencing deposits or investments made under authority of this section shall be issued in the name of the county with the county treasurer or investing authority as the designated payee. If any such deposits or investments are registrable either as to principal or interest, or both, they shall be registered in the name of the treasurer.

(I) The investing authority shall be responsible for the safekeeping of all documents evidencing a deposit or investment acquired under this section including, but not limited to, safekeeping receipts evidencing securities deposited with a qualified trustee, as provided in section 135.37 of the Revised Code, and documents confirming the purchase of securities under any repurchase agreement under this section shall be deposited with a qualified trustee, provided, however, that the qualified trustee shall be required to report to the investing authority, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the county for the

current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the investing authority.

Upon the expiration of the term of office of an investing authority or in the event of a vacancy in the office for any reason, the officer or the officer's legal representative shall transfer and deliver to the officer's successor all documents mentioned in this division for which the officer has been responsible for safekeeping. For all such documents transferred and delivered, such officer shall be credited with, and the officer's successor shall be charged with, the amount of moneys so evidenced by such documents.

(J)(1) All investments, except for investments in securities described in divisions (A)(5) and (6) of this section, shall be made only through a member of the national association of securities dealers, through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.

(2) Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, investing authority, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

(K)(1) Except as otherwise provided in division (K)(2) of this section, no investing authority shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the investing authority. The policy shall require that all entities conducting investment business with the investment authority shall sign the investment policy of that investment authority. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, initiating transactions with the investment authority by giving advice or making investment recommendations shall sign the investment authority's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, executing transactions initiated by the investment authority, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

(2) If a written investment policy described in division (K)(1) of this section is not filed on behalf of the county with the auditor of state, the

investing authority of that county shall invest the county's inactive moneys and moneys of the county library and local government support fund only in time certificates of deposits or savings or deposit accounts pursuant to division (A)(3) of this section, no-load money market mutual funds pursuant to division (A)(5) of this section, or the Ohio subdivision's fund pursuant to division (A)(6) of this section.

(L)(1) The investing authority shall establish and maintain an inventory of all obligations and securities acquired by the investing authority pursuant to this section. The inventory shall include a description of each obligation or security, including type, cost, par value, maturity date, settlement date, and any coupon rate.

(2) The investing authority shall also keep a complete record of all purchases and sales of the obligations and securities made pursuant to this section.

(3) The investing authority shall maintain a monthly portfolio report and issue a quarterly investment report describing such investments to the county investment advisory committee, detailing the current inventory of all obligations and securities, all transactions during the month that affected the inventory, any income received from the obligations and securities, and any investment expenses paid, and stating the names of any persons effecting transactions on behalf of the investing authority.

(4) The monthly portfolio report and the quarterly investment report shall be public records and available for inspection under section 149.43 of the Revised Code.

(5) The inventory, the monthly portfolio report, and the quarterly investment report shall be on standard forms approved by the auditor of state and shall be filed with the board of county commissioners.

(M) An investing authority may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration to settle any controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the investing authority is located.

For purposes of this division, "investment or deposit agreement" means

any agreement between an investing authority and a person, under which agreement the person agrees to invest, deposit, or otherwise manage, on behalf of the investing authority, a county's inactive moneys or moneys in a county library and local government support fund, or agrees to provide investment advice to the investing authority.

(N) An investment held in the county portfolio on ~~the effective date of this amendment~~ September 27, 1996, that was a legal investment under the law as it existed before ~~the effective date of this amendment~~ September 27, 1996, may be held until maturity, or if the investment does not have a maturity date the investment may be held until five years from ~~the effective date of this amendment~~ September 27, 1996, regardless of whether the investment would qualify as a legal investment under the terms of this section as amended.

Sec. 321.46. (A) To enhance the background and working knowledge of county treasurers in governmental accounting, portfolio reporting and compliance, investments, and cash management, the auditor of state and the treasurer of state shall conduct education programs for persons elected for the first time to the office of county treasurer and shall hold annual continuing education programs for persons who continue to hold the office of county treasurer. Education programs for newly elected county treasurers shall be held between the first day of December and the first Monday of September next following that person's election to the office of county treasurer. Similar initial training may also be provided to any county treasurer who is appointed to fill a vacancy or who is elected at a special election.

(B)(1) The auditor of state shall determine the manner and content of the education programs in the subject areas of governmental accounting and portfolio reporting and compliance. In those areas, newly elected county treasurers shall be required to take at least thirteen hours of education before taking office.

(2) The treasurer of state shall determine the manner and content of the education programs in the subject areas of investments and cash management. In those areas, newly elected county treasurers shall be required to take at least thirteen hours of education before taking office.

(3) After completing one year in office, a county treasurer shall be required to take not less than twelve hours annually of continuing education. The treasurer of state shall determine the manner and content of the education programs in the subject areas of investments, cash management, the collection of taxes, ethics, and any other subject area that the treasurer of state determines is reasonably related to the duties of the office of the county

treasurer. The auditor of state shall determine the manner and content of the education programs in the subject areas of governmental accounting, portfolio reporting and compliance, office management, and any other subject area that the auditor of state determines is reasonably related to the duties of the office of the county treasurer.

(C) The auditor of state and the treasurer of state may each charge counties a registration fee that will meet actual and necessary expenses of the training of county treasurers, including instructor fees, site acquisition costs, and the cost of course materials. The necessary personal expenses of county treasurers as a result of attending the training programs shall be borne by the counties the treasurers represent.

(D) The auditor of state and the treasurer of state may allow any other interested person to attend any of the education programs that are held pursuant to this section, provided that before attending any such education program, the interested person shall pay to either the auditor of state or the treasurer of state, as appropriate, the full registration fee set for the education program.

(E) A county treasurer who fails to complete the initial or continuing education programs required by this section without a valid health-related excuse or other special hardship shall be restricted to investing in the Ohio subdivision's fund pursuant to division (A)(6) of section 135.35 of the Revised Code, in no-load money market mutual funds pursuant to division (A)(5) of section 135.35 of the Revised Code, or in time certificate of deposits or deposit accounts pursuant to division (A)(3) of section 135.35 of the Revised Code. A county treasurer who has failed to complete the initial or continuing education programs and invests in other than the investments permitted by this division shall be subject to removal from office upon complaint and investigation by the county prosecuting attorney, a hearing, and a resolution adopted by the board of county commissioners approving the removal from office.

(F)(1) There is hereby created in the state treasury the county treasurer education fund, to be used by the treasurer of state for actual and necessary expenses of education programs held pursuant to this section. All registration fees collected by the treasurer of state under this section shall be paid into that fund.

(2) All registration fees collected by the auditor of state under this section shall be paid into the auditor of state training program fund established under section 117.44 of the Revised Code.

(G) The treasurer of state, with the advice and consent of the auditor of state, may adopt reasonable rules not inconsistent with this section for the

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implementation of this section.

SECTION 2. That existing sections 135.14, 135.143, 135.22, 135.35, and 321.46 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____