

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 682**

**Representatives Brinkman, Kelly**

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**A BILL**

To amend section 135.14 of the Revised Code to 1  
amend the law related to the investment of 2  
interim money. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 135.14 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 135.14.** (A) As used in this section: 6

(1) "Treasurer" does not include the treasurer of state, 7  
and "governing board" does not include the state board of 8  
deposit. 9

(2) "Other obligations" includes notes whether or not 10  
issued in anticipation of the issuance of bonds. 11

(B) The treasurer or governing board may invest or deposit 12  
any part or all of the interim moneys. The following 13  
classifications of obligations shall be eligible for such 14  
investment or deposit: 15

(1) United States treasury bills, notes, bonds, or any 16  
other obligation or security issued by the United States 17  
treasury or any other obligation guaranteed as to principal and 18

interest by the United States. 19

Nothing in the classification of eligible obligations set 20  
forth in division (B)(1) of this section or in the 21  
classifications of eligible obligations set forth in divisions 22  
(B)(2) to (7) of this section shall be construed to authorize 23  
any investment in stripped principal or interest obligations of 24  
such eligible obligations. 25

(2) Bonds, notes, debentures, or any other obligations or 26  
securities issued by any federal government agency or 27  
instrumentality, including but not limited to, the federal 28  
national mortgage association, federal home loan bank, federal 29  
farm credit bank, federal home loan mortgage corporation, and 30  
government national mortgage association. All federal agency 31  
securities shall be direct issuances of federal government 32  
agencies or instrumentalities. 33

(3) Interim deposits in the eligible institutions applying 34  
for interim moneys as provided in section 135.08 of the Revised 35  
Code. The award of interim deposits shall be made in accordance 36  
with section 135.09 of the Revised Code and the treasurer or the 37  
governing board shall determine the periods for which such 38  
interim deposits are to be made and shall award such interim 39  
deposits for such periods, provided that any eligible 40  
institution receiving an interim deposit award may, upon 41  
notification that the award has been made, decline to accept the 42  
interim deposit in which event the award shall be made as though 43  
the institution had not applied for such interim deposit. 44

(4) Bonds and other obligations of this state, or the 45  
political subdivisions of this state, provided that, with 46  
respect to bonds or other obligations of political subdivisions, 47  
all of the following apply: 48

(a) The bonds or other obligations are payable from 49  
general revenues of the political subdivision and backed by the 50  
full faith and credit of the political subdivision. 51

(b) The bonds or other obligations are rated at the time 52  
of purchase in the three highest classifications established by 53  
at least one nationally recognized standard rating service and 54  
purchased through a registered securities broker or dealer. 55

(c) The aggregate value of the bonds or other obligations 56  
does not exceed twenty per cent of interim moneys available for 57  
investment at the time of purchase. 58

(d) The treasurer or governing board is not the sole 59  
purchaser of the bonds or other obligations at original 60  
issuance. 61

(e) The bonds or other obligations mature within ten years 62  
from the date of settlement. 63

No investment shall be made under division (B) (4) of this 64  
section unless the treasurer or governing board has completed 65  
additional training for making the investments authorized by 66  
division (B) (4) of this section. The type and amount of 67  
additional training shall be approved by the treasurer of state 68  
and may be conducted by or provided under the supervision of the 69  
treasurer of state. 70

(5) No-load money market mutual funds consisting 71  
exclusively of obligations described in division (B) (1) or (2) 72  
of this section and repurchase agreements secured by such 73  
obligations, provided that investments in securities described 74  
in this division are made only through eligible institutions 75  
mentioned in section 135.03 of the Revised Code; 76

(6) The Ohio subdivision's fund as provided in section 77

135.45 of the Revised Code;	78
(7) Up to forty per cent of interim moneys available for investment in either of the following:	79 80
(a) Commercial paper notes issued by an entity that is defined in <del>division (D) of section 1705.01 or</del> division (E) of section 1706.01 of the Revised Code and that has assets exceeding five hundred million dollars, to which notes all of the following apply:	81 82 83 84 85
(i) The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.	86 87 88
(ii) The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.	89 90 91
(iii) The notes mature not later than two hundred seventy days after purchase.	92 93
(iv) The investment in commercial paper notes of a single issuer shall not exceed in the aggregate five per cent of interim moneys available for investment at the time of purchase.	94 95 96
(b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and that mature not later than one hundred eighty days after purchase.	97 98 99
No investment shall be made pursuant to division (B) (7) of this section unless the treasurer or governing board has completed additional training for making the investments authorized by division (B) (7) of this section. The type and amount of additional training shall be approved by the treasurer of state and may be conducted by or provided under the	100 101 102 103 104 105

supervision of the treasurer of state. 106

(C) Nothing in the classifications of eligible obligations 107  
set forth in divisions (B) (1) to (7) of this section shall be 108  
construed to authorize any investment in a derivative, and no 109  
treasurer or governing board shall invest in a derivative. For 110  
purposes of this division, "derivative" means a financial 111  
instrument or contract or obligation whose value or return is 112  
based upon or linked to another asset or index, or both, 113  
separate from the financial instrument, contract, or obligation 114  
itself. Any security, obligation, trust account, or other 115  
instrument that is created from an issue of the United States 116  
treasury or is created from an obligation of a federal agency or 117  
instrumentality or is created from both is considered a 118  
derivative instrument. An eligible investment described in this 119  
section with a variable interest rate payment, based upon a 120  
single interest payment or single index comprised of other 121  
eligible investments provided for in division (B) (1) or (2) of 122  
this section, is not a derivative, provided that such variable 123  
rate investment has a maximum maturity of two years. 124

(D) Except as provided in division (B) (4) ~~or~~, (E), or (R) 125  
of this section, any investment made pursuant to this section 126  
must mature within five years from the date of settlement, 127  
unless the investment is matched to a specific obligation or 128  
debt of the subdivision. 129

(E) The treasurer or governing board may also enter into a 130  
written repurchase agreement with any eligible institution 131  
mentioned in section 135.03 of the Revised Code or any eligible 132  
dealer pursuant to division (M) of this section, under the terms 133  
of which agreement the treasurer or governing board purchases, 134  
and such institution or dealer agrees unconditionally to 135

repurchase any of the securities listed in divisions (D) (1) to 136  
(5), except letters of credit described in division (D) (2), of 137  
section 135.18 of the Revised Code. The market value of 138  
securities subject to an overnight written repurchase agreement 139  
must exceed the principal value of the overnight written 140  
repurchase agreement by at least two per cent. A written 141  
repurchase agreement shall not exceed thirty days and the market 142  
value of securities subject to a written repurchase agreement 143  
must exceed the principal value of the written repurchase 144  
agreement by at least two per cent and be marked to market 145  
daily. All securities purchased pursuant to this division shall 146  
be delivered into the custody of the treasurer or governing 147  
board or an agent designated by the treasurer or governing 148  
board. A written repurchase agreement with an eligible 149  
securities dealer shall be transacted on a delivery versus 150  
payment basis. The agreement shall contain the requirement that 151  
for each transaction pursuant to the agreement the participating 152  
institution or dealer shall provide all of the following 153  
information: 154

- (1) The par value of the securities; 155
- (2) The type, rate, and maturity date of the securities; 156
- (3) A numerical identifier generally accepted in the 157  
securities industry that designates the securities. 158

No treasurer or governing board shall enter into a written 159  
repurchase agreement under the terms of which the treasurer or 160  
governing board agrees to sell securities owned by the 161  
subdivision to a purchaser and agrees with that purchaser to 162  
unconditionally repurchase those securities. 163

- (F) No treasurer or governing board shall make an 164

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. The notification shall be given within thirty days after such

classification and in the event the governing board does not 194  
concur in such classification or in the investments or deposits 195  
made under this section, the governing board may order the 196  
treasurer to sell or liquidate any of such investments or 197  
deposits, and any such order shall specifically describe the 198  
investments or deposits and fix the date upon which they are to 199  
be sold or liquidated. Investments or deposits so ordered to be 200  
sold or liquidated shall be sold or liquidated for cash by the 201  
treasurer on the date fixed in such order at the then current 202  
market price. Neither the treasurer nor the members of the board 203  
shall be held accountable for any loss occasioned by sales or 204  
liquidations of investments or deposits at prices lower than 205  
their cost. Any loss or expense incurred in making such sales or 206  
liquidations is payable as other expenses of the treasurer's 207  
office. 208

(J) If any investments or deposits purchased under the 209  
authority of this section are issuable to a designated payee or 210  
to the order of a designated payee, the name of the treasurer 211  
and the title of the treasurer's office shall be so designated. 212  
If any such securities are registrable either as to principal or 213  
interest, or both, then such securities shall be registered in 214  
the name of the treasurer as such. 215

(K) The treasurer is responsible for the safekeeping of 216  
all documents evidencing a deposit or investment acquired by the 217  
treasurer under this section. Any securities may be deposited 218  
for safekeeping with a qualified trustee as provided in section 219  
135.18 of the Revised Code, except the delivery of securities 220  
acquired under any repurchase agreement under this section shall 221  
be made to a qualified trustee, provided, however, that the 222  
qualified trustee shall be required to report to the treasurer, 223  
governing board, auditor of state, or an authorized outside 224

auditor at any time upon request as to the identity, market 225  
value, and location of the document evidencing each security, 226  
and that if the participating institution is a designated 227  
depository of the subdivision for the current period of 228  
designation, the securities that are the subject of the 229  
repurchase agreement may be delivered to the treasurer or held 230  
in trust by the participating institution on behalf of the 231  
subdivision. Interest earned on any investments or deposits 232  
authorized by this section shall be collected by the treasurer 233  
and credited by the treasurer to the proper fund of the 234  
subdivision. 235

Upon the expiration of the term of office of a treasurer 236  
or in the event of a vacancy in the office of treasurer by 237  
reason of death, resignation, removal from office, or otherwise, 238  
the treasurer or the treasurer's legal representative shall 239  
transfer and deliver to the treasurer's successor all documents 240  
evidencing a deposit or investment held by the treasurer. For 241  
the investments and deposits so transferred and delivered, such 242  
treasurer shall be credited with and the treasurer's successor 243  
shall be charged with the amount of money held in such 244  
investments and deposits. 245

(L) Whenever investments or deposits acquired under this 246  
section mature and become due and payable, the treasurer shall 247  
present them for payment according to their tenor, and shall 248  
collect the moneys payable thereon. The moneys so collected 249  
shall be treated as public moneys subject to sections 135.01 to 250  
135.21 of the Revised Code. 251

(M) (1) All investments, except for investments in 252  
securities described in divisions (B) (5) and (6) and (R) of this 253  
section and for investments by a municipal corporation in the 254

issues of such municipal corporation, shall be made only through 255  
a member of the financial industry regulatory authority (FINRA), 256  
through a bank, savings bank, or savings and loan association 257  
regulated by the superintendent of financial institutions, or 258  
through an institution regulated by the comptroller of the 259  
currency, federal deposit insurance corporation, or board of 260  
governors of the federal reserve system. 261

(2) Payment for investments shall be made only upon the 262  
delivery of securities representing such investments to the 263  
treasurer, governing board, or qualified trustee. If the 264  
securities transferred are not represented by a certificate, 265  
payment shall be made only upon receipt of confirmation of 266  
transfer from the custodian by the treasurer, governing board, 267  
or qualified trustee. 268

(N) In making investments authorized by this section, a 269  
treasurer or governing board may retain the services of an 270  
investment advisor, provided the advisor is licensed by the 271  
division of securities under section 1707.141 of the Revised 272  
Code or is registered with the securities and exchange 273  
commission, and possesses experience in public funds investment 274  
management, specifically in the area of state and local 275  
government investment portfolios, or the advisor is an eligible 276  
institution mentioned in section 135.03 of the Revised Code. 277

(O) (1) Except as otherwise provided in divisions (O) (2) 278  
and (3) of this section, no treasurer or governing board shall 279  
make an investment or deposit under this section, unless there 280  
is on file with the auditor of state a written investment policy 281  
approved by the treasurer or governing board. The policy shall 282  
require that all entities conducting investment business with 283  
the treasurer or governing board shall sign the investment 284

policy of that subdivision. All brokers, dealers, and financial 285  
institutions, described in division (M) (1) of this section, 286  
initiating transactions with the treasurer or governing board by 287  
giving advice or making investment recommendations shall sign 288  
the treasurer's or governing board's investment policy thereby 289  
acknowledging their agreement to abide by the policy's contents. 290  
All brokers, dealers, and financial institutions, described in 291  
division (M) (1) of this section, executing transactions 292  
initiated by the treasurer or governing board, having read the 293  
policy's contents, shall sign the investment policy thereby 294  
acknowledging their comprehension and receipt. 295

(2) If a written investment policy described in division 296  
(O) (1) of this section is not filed on behalf of the subdivision 297  
with the auditor of state, the treasurer or governing board of 298  
that subdivision shall invest the subdivision's interim moneys 299  
only in interim deposits pursuant to division (B) (3) of this 300  
section or interim deposits pursuant to section 135.145 of the 301  
Revised Code and approved by the treasurer of state, no-load 302  
money market mutual funds pursuant to division (B) (5) of this 303  
section, or the Ohio subdivision's fund pursuant to division (B) 304  
(6) of this section. 305

(3) Divisions (O) (1) and (2) of this section do not apply 306  
to a treasurer or governing board of a subdivision whose average 307  
annual portfolio of investments held pursuant to this section is 308  
one hundred thousand dollars or less, provided that the 309  
treasurer or governing board certifies, on a form prescribed by 310  
the auditor of state, that the treasurer or governing board will 311  
comply and is in compliance with the provisions of sections 312  
135.01 to 135.21 of the Revised Code. 313

(P) A treasurer or governing board may enter into a 314

written investment or deposit agreement that includes a 315  
provision under which the parties agree to submit to nonbinding 316  
arbitration to settle any controversy that may arise out of the 317  
agreement, including any controversy pertaining to losses of 318  
public moneys resulting from investment or deposit. The 319  
arbitration provision shall be set forth entirely in the 320  
agreement, and the agreement shall include a conspicuous notice 321  
to the parties that any party to the arbitration may apply to 322  
the court of common pleas of the county in which the arbitration 323  
was held for an order to vacate, modify, or correct the award. 324  
Any such party may also apply to the court for an order to 325  
change venue to a court of common pleas located more than one 326  
hundred miles from the county in which the treasurer or 327  
governing board is located. 328

For purposes of this division, "investment or deposit 329  
agreement" means any agreement between a treasurer or governing 330  
board and a person, under which agreement the person agrees to 331  
invest, deposit, or otherwise manage a subdivision's interim 332  
moneys on behalf of the treasurer or governing board, or agrees 333  
to provide investment advice to the treasurer or governing 334  
board. 335

(Q) An investment made by the treasurer or governing board 336  
pursuant to this section prior to September 27, 1996, that was a 337  
legal investment under the law as it existed before September 338  
27, 1996, may be held until maturity. 339

(R) The treasurer or governing board of a subdivision that 340  
is a member of a fire district created pursuant to section 341  
505.371 of the Revised Code may invest all or part of the 342  
interim money in bonds or other obligations of the fire district 343  
of which it is a member. The bonds or other obligations must 344

mature within twenty years from the date of settlement. 345

**Section 2.** That existing section 135.14 of the Revised 346  
Code is hereby repealed. 347