

§1164. Investments

A sanitary district may invest its funds, including sinking funds, reserve funds and trust funds in accordance with this section. This section is in addition to, and not in limitation of, any power of a sanitary district to invest its funds. [PL 2017, c. 151, §6 (AMD).]

1. Deposit or investment of funds. A sanitary district may invest all district funds, including reserve funds and trust funds, if the terms of the instrument, order or article creating the fund do not prohibit the investment, as follows:

A. In accounts or deposits of institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the successors to these federal programs.

(1) Accounts and deposits exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan association on deposit at any one time must be secured by the pledge of certain securities as collateral or fully covered by insurance.

(a) The collateral must be in an amount equal to the excess deposit. The trustees shall determine the value of the pledged securities on the basis of market value and shall review the value of the pledged securities on the first business day of January and July of each year.

(b) The collateral may consist only of securities in corporate bond and Maine corporate bond. The securities must be held in a depository institution approved by the trustees and pledged to indemnify the sanitary district against any loss. The depository institution shall notify the trustees of the pledging when the securities are deposited; [PL 2017, c. 151, §6 (NEW).]

B. In repurchase agreements with respect to obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1, as long as the market value of the underlying obligation is equal to or greater than the amount of the sanitary district's investment and either the sanitary district's security entitlement with respect to the underlying obligation is created pursuant to the provisions of Title 11, Article 8-A and other applicable law or the sanitary district's security interest is perfected pursuant to Title 11, Article 9-A and other applicable law, except that, if the term of the repurchase agreement is not in excess of 96 hours, the sanitary district's security interest with respect to the underlying obligation need not be perfected as long as an executed Public Securities Association form of master repurchase agreement is on file with the counterparty prior to the date of the transaction; [PL 2017, c. 151, §6 (NEW).]

C. In the shares of an investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, if the investments of the fund are limited to bonds and other direct obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1, or repurchase agreements secured by bonds and other direct obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1; or [PL 2017, c. 151, §6 (NEW).]

D. The trustees may enter into an agreement with any financial institution with trust powers authorized to do business in the State for the safekeeping of the reserve funds, or trust funds, of the sanitary district. Services must consist of the safekeeping of the funds, collection of interest and dividends and any other fiscal service that is normally covered in a safekeeping agreement. Investment of reserve funds or trust funds deposited under a safekeeping agreement may be managed either by the financial institution with which the funds are deposited or by an investment advisor registered with the National Association of Securities Dealers, federal Securities and

Exchange Commission or other governmental agency or instrumentality with jurisdiction over investment advisors, to act in such capacity pursuant to an investment advisory agreement providing for investment management and periodic review of portfolio investments. Investment of funds on behalf of the district under this paragraph is governed by the rule of prudence, according to Title 18-B, sections 802 to 807 and Title 18-B, chapter 9. The contracting parties shall give assurance of proper safeguards that are usual to these contracts and shall furnish insurance protection satisfactory to both parties. [PL 2017, c. 151, §6 (NEW).]

[PL 2017, c. 151, §6 (NEW).]

2. Government unit bonds. A sanitary district may invest in:

A. The bonds and other direct obligations of the United States, or the bonds and other direct obligations or participation certificates issued by any agency, association, authority or instrumentality created by the United States Congress or any executive order; [PL 2017, c. 151, §6 (NEW).]

B. The bonds and other direct obligations issued or guaranteed by any state or by any political subdivision, instrumentality or agency of any state, if the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions; [PL 2017, c. 151, §6 (NEW).]

C. The bonds and other direct obligations issued or guaranteed by this State, or issued by any instrumentality or agency of this State, or any political subdivision of the State that is not in default on any of its outstanding funded obligations; or [PL 2017, c. 151, §6 (NEW).]

D. Prime bankers' acceptances and prime commercial paper. [PL 2017, c. 151, §6 (NEW).]

Investments made pursuant to this subsection are limited to direct obligations of the issuer in which the sanitary district directly owns the underlying security. Obligations created from, or whose value depends on or is derived from, the value of one or more underlying assets or indexes of asset values in which the sanitary district owns no direct interest do not qualify as investments under this subsection. [PL 2017, c. 151, §6 (NEW).]

3. Corporate securities. A sanitary district may invest in:

A. The bonds and other obligations of any United States or Canadian corporation if the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions and are payable in United States funds. Not more than 2% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in the securities of any one such corporation; and [PL 2017, c. 151, §6 (NEW).]

B. The bonds and other obligations of any Maine corporation, actually conducting in this State the business for which that corporation was created, that, for a period of 3 successive fiscal years or for a period of 3 years immediately preceding the investment, has earned or received an average net income of not less than 2 times the interest on the obligations in question and all prior liens or, in the case of water companies subject to the jurisdiction of the Public Utilities Commission, an average net income of not less than 1 1/2 times the interest on the obligations in question and all prior liens. Not more than 20% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in these securities of Maine corporations and not more than 2% of that fund may be invested in the securities of any single corporation. [PL 2017, c. 151, §6 (NEW).]

[PL 2017, c. 151, §6 (NEW).]

4. Retention of unauthorized securities. Sanitary districts may acquire and hold securities not authorized by law but that have been acquired in settlements, reorganizations, recapitalizations, mergers or consolidations or by receipt of stock dividends or the exercise of rights applicable to securities held

by sanitary districts and may continue to hold these securities at the discretion of the trustees. Sanitary districts may continue to hold at the discretion of the trustees securities under authorization of law. [PL 2017, c. 151, §6 (NEW).]

5. Standard of prudence. All investments made under this section must be made with the judgment and care that persons of prudence, discretion and intelligence, under circumstances then prevailing, exercise in the management of their own affairs, not for speculation but for investment, considering:

- A. The safety of principal and preservation of capital in the overall portfolio; [PL 2017, c. 151, §6 (NEW).]
- B. Maintenance of sufficient liquidity to meet all operating and other cash requirements with which a fund is charged that are reasonably anticipated; and [PL 2017, c. 151, §6 (NEW).]
- C. The income to be derived throughout budgetary and economic cycles, taking into account prudent investment risk constraints and the cash flow characteristics of the portfolio. [PL 2017, c. 151, §6 (NEW).]

This standard must be applied to the overall investment portfolio of the sanitary district and not to individual items within a diversified portfolio. [PL 2017, c. 151, §6 (NEW).]

SECTION HISTORY

PL 1993, c. 651, §7 (NEW). PL 2017, c. 151, §6 (AMD).

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