

Senate Bill No. 866

CHAPTER 784

An act to amend Sections 26945, 26980, 53601, 53635, and 53859.02 of, to add Sections 27000.1, 27000.3, 27000.5, 27000.6, 27000.7, 27000.8, 27000.9, 53600.3, 53600.5, 53600.6, 53601.6, 53630.1, 53631.5, 53821.5, 53841.5, and 53852.5 to, and to add Article 6 (commencing with Section 27130) to Chapter 5 of Division 2 of Title 3 of, the Government Code, relating to local government.

[Approved by Governor October 12, 1995. Filed
with Secretary of State October 12, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 866, Craven. Local government.

(1) Existing law specifies the duties of the county treasurer with respect to the investment of funds in the county treasury.

This bill would authorize the board of supervisors to delegate to the county treasurer the authority to invest or reinvest the funds of the county and the funds of other depositors in the county treasury. The county treasurer would then be required to assume full responsibility for those transactions. The bill would specify that the county treasurer is a trustee and a fiduciary subject to the prudent investor standard, as specified, and would specify the objectives for investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds. The bill would apply the same standards to other local officials and governing bodies investing public funds.

The bill would also require the board of supervisors in each county or city and county that is investing surplus funds to establish a county treasury oversight committee with specified membership who meet certain qualifications. The bill would require the county treasurer, in any county that establishes the committee, to annually prepare an investment policy with prescribed contents that would be reviewed and monitored by the committee and would require the committee to conduct an annual audit to determine the county treasury's compliance with the policy. The bill would require approval of the county treasurer to withdraw funds to invest outside the county treasury pool.

(2) Under existing law, the legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessity of the local agency, may invest the funds in any of several specified investments, including repurchase agreements and reverse repurchase agreements.

This bill would require a local agency that decides to purchase or obtain a security for investment under these provisions to require



delivery of the security to the local agency by book entry, physical delivery, or third-party custodial agreement. The bill would also restrict the repurchase and reverse repurchase agreements that may be invested in under these provisions and would prohibit investment in inverse floaters, range notes, interest-only strips that are derived from a pool of mortgages, or any security that could result in zero interest accrual if held to maturity, except as specified.

(3) Existing law authorizes a local agency, as defined, to temporarily borrow funds subject to specified conditions and to issue notes and grant anticipation notes in order to borrow money, as specified.

This bill would specify that the proceeds of sales or funds set aside for the repayment of any notes issued in these circumstances shall not be invested for a term that exceeds the term of the notes.

(4) Existing law sets forth the qualifications required of a person appointed or elected county auditor. Among other things, a person may be appointed or elected pursuant to these provisions if that person possesses a valid certificate or diploma of graduation from a school of accountancy, or has served as county auditor or deputy county auditor for a continuous period of not less than 3 years.

This bill would incorporate changes to this provision made by Chapter 107 of the Statutes of 1995 to provide that a person may be appointed or elected pursuant to these provisions if he or she possesses a baccalaureate degree from an accredited university, college, or other 4-year institution, with a major in accounting or its equivalent. It would provide that a person may be appointed or elected if he or she has served as county auditor, chief deputy county auditor, or chief assistant county auditor for a continuous period of not less than 3 years.

The bill would also add persons who possess a certificate issued by the institute of internal auditors, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, and financing among the persons who may be elected or appointed to the office of county auditor.

(5) Existing law authorizes the county board of supervisors to establish the office of director of finance subject to voter approval. The question of whether the office, if established, shall be elective or appointed by the board may also be submitted to the voters at the same election.

This bill would provide that any person may be appointed by the board of supervisors, or be a candidate for election, to the office of the director of finance, consolidated from other offices pursuant to existing law, if he or she meets the qualifications for the office of the director of finance.

(6) Existing law does not specify qualifications of county treasurer.

This bill would authorize a county board of supervisors to enact an ordinance adopting certain qualifications applicable to persons



appointed or elected after January 1, 1998, and continuing education requirements applicable to persons elected after January 1, 1996, or appointed and serving on or after the year 2000, for the office of county treasurer, county tax collector, or county treasurer-tax collector.

The people of the State of California do enact as follows:

SECTION 1. Section 26945 of the Government Code is amended to read:

26945. No person shall hereafter be elected or appointed to the office of county auditor of any county unless the person meets at least one of the following criteria:

(a) The person possesses a valid certificate issued by the California State Board of Accountancy under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code showing the person to be, and a permit authorizing the person to practice as, a certified public accountant or as a public accountant.

(b) The person possesses a baccalaureate degree from an accredited university, college, or other four-year institution, with a major in accounting or its equivalent, as described in subdivision (a) of Section 5081.1 of the Business and Professions Code.

(c) The person possesses a certificate issued by the Institute of Internal Auditors showing the person to be a designated professional internal auditor, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(d) The person has served as county auditor, chief deputy county auditor, or chief assistant county auditor for a continuous period of not less than three years.

SEC. 2. Section 26980 of the Government Code is amended to read:

26980. The board of supervisors of any county may establish the office of director of finance.

(a) The board of supervisors shall submit to the electors of the county the question of whether the office of director of finance shall be established. If a majority of the voters voting on the question at that election favor the establishment of the office, the board of supervisors shall, by ordinance, create the office.

(b) The board of supervisors at that election may also submit to the voters the question of whether the office, if so established, shall be elective, or appointed by the board of supervisors. If a majority of the voters voting on the question favor making the office elective, the board of supervisors shall, in the ordinance creating the office, make it an elective one.

(c) Any person may be appointed by the board of supervisors, or be a candidate for election, to the office of director of finance,



consolidated from other offices pursuant to this chapter, if he or she meets the qualifications set forth in Section 26945 or Section 27000.7.

SEC. 3. Section 27000.1 is added to the Government Code, to read:

27000.1. The board of supervisors may, by ordinance, delegate to the county treasurer the authority to invest or reinvest the funds of the county and the funds of other depositors in the county treasury, pursuant to Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5. The county treasurer shall thereafter assume full responsibility for those transactions until the board of supervisors, by ordinance, revokes its delegation of authority. Nothing in this section shall limit the county treasurer's authority pursuant to Section 53635 or 53684.

SEC. 4. Section 27000.3 is added to the Government Code, to read:

27000.3. The county treasurer is a trustee and therefore a fiduciary subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, the county treasurer shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the county and the other depositors. Within the limitations of this section and considering individual investments as part of an overall investment strategy, a trustee is authorized to acquire investments as authorized by law. Nothing in this chapter is intended to grant investment authority to any person or governing body except as provided in Sections 53601, 53607, and 53635.

SEC. 5. Section 27000.5 is added to the Government Code, to read:

27000.5. When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, the primary objective of the county treasurer shall be to safeguard the principal of the funds under his or her control. The secondary objective shall be to meet the liquidity needs of the depositor. The third objective shall be to achieve a return on the funds under his or her control.

SEC. 6. Section 27000.6 is added to the Government Code, to read:

27000.6. The provisions of Sections 27000.7, 27000.8, and 27000.9 shall become effective only in those counties in which, prior to the first date of the period for filing declarations of candidacy for the office of county treasurer, county tax collector, or county treasurer-tax collector, the board of supervisors by majority vote at a regular meeting with all members present, enact an ordinance adopting the provisions of those sections. That ordinance may be repealed by the board of supervisors at any time.



SEC. 7. Section 27000.7 is added to the Government Code, to read:

27000.7. (a) No person shall be eligible for election or appointment to the office of county treasurer, county tax collector, or county treasurer-tax collector of any county unless that person meets at least one of the following criteria:

(1) The person has served in a senior financial management position in a county, city, or other public agency dealing with similar financial responsibilities for a continuous period of not less than three years, including, but not limited to, treasurer, tax collector, auditor, auditor-controller, or the chief deputy or an assistant in those offices.

(2) The person possesses a valid baccalaureate, masters, or doctoral degree from an accredited college or university in any of the following major fields of study: business administration, public administration, economics, finance, accounting, or a related field, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(3) The person possesses a valid certificate issued by the California State Board of Accounting pursuant to Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code, showing that person to be, and a permit authorizing that person to practice as, a certified public accountant.

(4) The person possesses a valid charter issued by the Institute of Chartered Financial Analysts showing the person to be designated a Chartered Financial Analyst, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(5) The person possesses a valid certificate issued by the Treasuring Management Association showing the person to be designated a Certified Cash Manager, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(b) This section shall only apply to any person duly elected or appointed as a county treasurer, county tax collector, or county treasurer-tax collector on or after January 1, 1998.

SEC. 8. Section 27000.8 is added to the Government Code, to read:

27000.8. Any duly elected county treasurer, county tax collector, or county treasurer-tax collector serving in that office on January 1, 1996, may serve for his or her remaining term of office during which period of time the requirements of this section shall not apply. After the election of a county treasurer, county tax collector, or county treasurer-tax collector to office, that person shall complete a valid continuing course of study as prescribed in this section, and shall during the person's four-year term of office on or before June 30 of the fourth year, render to the State Controller a certification indicating that the person has successfully completed a continuing education program consisting of, at a minimum, 48 hours, or an



equivalent amount of continuing education units within the discipline of treasury management or public finance or both, offered by a recognized state or national association, institute, or accredited college or university, that provides the requisite educational programs prescribed in this section. The willful or negligent failure of any elected county treasurer, county tax collector, or county treasurer-tax collector to comply with the requirements of this section shall be deemed a violation of this section.

SEC. 9. Section 27000.9 is added to the Government Code, to read:

27000.9. Notwithstanding any other requirement of law, any duly appointed county officer serving in the capacity of county treasurer, county tax collector, or county treasurer-tax collector shall, beginning in 2000, complete a valid continuing course of study as prescribed in this section, and shall, on or before June 30 of each two-year period, render to the State Controller, a certification indicating that the county officer has successfully completed a continuing education program consisting of, at a minimum, 24 hours or an equivalent amount of continuing education units within the discipline of treasury management or public finance, or both offered by a recognized state or national association, institute, or accredited college or university, that provides the requisite educational programs prescribed in this section. The willful or negligent failure of any county officer serving in the capacity of county treasurer, county tax collector, or county treasurer-tax collector to comply with the requirements of this section shall be deemed a violation of this section.

SEC. 10. Article 6 (commencing with Section 27130) is added to Chapter 5 of Division 2 of Title 3 of the Government Code, to read:

Article 6. County Treasury Oversight Committees

27130. The Legislature finds and declares that local agencies, including school districts, should participate in reviewing the policies that guide the investment of those funds. The Legislature further finds and declares that by pooling deposits from local agencies and other participants, county treasuries operate in the public interest when they consolidate banking and investment activities, reduce duplication, achieve economies of scale, and carry out coherent and consolidated investment strategies. The Legislature further finds and declares that the creation of county treasury oversight committees will promote the public interest by involving depositors in the management of their funds and by enhancing the security and investment return on their funds by providing a more stable and predictable balance for investment by establishing criteria for the withdrawal of funds.



27131. The board of supervisors in each county and city and county shall, if the county or city and county is investing surplus funds, establish a county treasury oversight committee. The board of supervisors, in consultation with the county treasurer, shall determine the exact size of the committee, which shall consist of from 3 to 11 members, and the categories from which the members shall be represented, as specified in subdivisions (a) to (g), inclusive, of Section 27132. Members shall be nominated by the treasurer and confirmed by the board of supervisors.

27132. The county treasury oversight committee, pursuant to Section 27131, shall consist of members appointed from the following:

- (a) The county treasurer.
- (b) The county auditor, auditor-controller, or finance director, as the case may be.
- (c) A representative appointed by the county board of supervisors.
- (d) The county superintendent of schools or his or her designee.
- (e) A representative selected by a majority of the presiding officers of the governing bodies of the school districts and community college districts in the county.
- (f) A representative selected by a majority of the presiding officers of the legislative bodies of the special districts in the county that are required or authorized to deposit funds in the county treasury.
- (g) Up to five other members of the public.
 - (1) A majority of the other public members shall have expertise in, or an academic background in, public finance.
 - (2) The other public members shall be economically diverse and bipartisan in political registration.

27132.1. A member may not be employed by an entity that has contributed to a reelection campaign of the local treasurer or a member of the legislative body of the local agency in the previous three years.

27132.2. A member may not directly or indirectly raise money for the county treasurer or a member of the board of supervisors while a member of the committee.

27132.3. A member may not secure employment with bond underwriters, bond counsel, security brokerages or dealers, or with financial services firms for three years after leaving the committee.

27132.4. Committee meetings shall be open to the public and subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

27133. In any county that establishes a county treasury oversight committee pursuant to this article, the county treasurer shall annually prepare an investment policy that will be reviewed and monitored by the county treasury oversight committee. The investment policy shall include all of the following:



(a) A list of securities or other instruments in which the county treasury may invest, according to law, including the maximum allowable percentage by type of security.

(b) The maximum term of any security purchased by the county treasury.

(c) The criteria for selecting security brokers and dealers from, to, or through whom the county treasury may purchase or sell securities or other instruments. The criteria shall prohibit the selection of any broker, brokerage, dealer, or securities firm that has, within any consecutive 48-month period following January 1, 1996, made a political contribution in an amount exceeding the limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board, to the local treasurer, any member of the governing board of the local agency, or any candidate for those offices.

(d) Limits on the receipt of honoraria, gifts, and gratuities from advisors, brokers, dealers, bankers, or other persons with whom the county treasury conducts business by any member of the county treasury oversight committee. These limits may be in addition to the limits set by a committee member's own agency, by state law, or by the Fair Political Practices Commission.

(e) A requirement that the county treasurer provide the county treasury oversight committee with an investment report as required by the board of supervisors.

(f) The manner of calculating and apportioning the costs, authorized by Section 27013, of investing, depositing, banking, auditing, reporting, or otherwise handling or managing funds.

(g) The terms and conditions under which local agencies and other entities that are not required to deposit their funds in the county treasury may deposit funds for investment purposes.

(h) Criteria for considering requests to withdraw funds from the county treasury, pursuant to Section 27136. The criteria shall include an assessment of the effect of a proposed withdrawal on the stability and predictability of the investments in the county treasury.

27134. The county treasury oversight committee shall cause an annual audit to be conducted to determine the county treasury's compliance with this article. The audit may include issues relating to the structure of the investment portfolio and risk.

27135. The costs of complying with this article shall be county charges and may be included with those charges enumerated under Section 27013.

27136. (a) Notwithstanding any other provision of law, any local agency, public agency, public entity, or public official that has funds on deposit in the county treasury pool and that seeks to withdraw funds for the purpose of investing or depositing those funds outside the county treasury pool, shall first submit the request for withdrawal to the county treasurer before withdrawing funds from the county treasury pool.



(b) The county treasurer shall evaluate each proposed withdrawal for its consistency with the criteria adopted pursuant to subdivision (h) of Section 27133. Prior to approving or disapproving a withdrawal, the county treasurer shall find that the proposed withdrawal will not adversely affect the interests of the other depositors in the county treasury pool.

27137. Nothing in this article shall be construed to allow the county treasury oversight committee to direct individual investment decisions, select individual investment advisors, brokers, or dealers, or impinge on the day-to-day operations of the county treasury.

SEC. 11. Section 53600.3 is added to the Government Code, to read:

53600.3. Governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part to an overall strategy, a trustee is authorized to acquire investments as authorized by law.

SEC. 12. Section 53600.5 is added to the Government Code, to read:

53600.5. When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, the primary objective of a trustee shall be to safeguard the principal of the funds under its control. The secondary objective shall be to meet the liquidity needs of the depositor. The third objective shall be to achieve a return on the funds under its control.

SEC. 13. Section 53600.6 is added to the Government Code, to read:

53600.6. The Legislature hereby finds that the solvency and creditworthiness of each individual local agency can impact the solvency and creditworthiness of the state and other local agencies within the state. Therefore, to protect the solvency and creditworthiness of the state and all of its political subdivisions, the Legislature hereby declares that the deposit and investment of public funds by local officials and local agencies is an issue of statewide concern.

SEC. 14. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the



immediate necessities of the local agency may invest any portion of the money that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisors, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery. For purposes of this section "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations,



or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars (\$500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money that may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638.

(i) (1) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including, the delivery requirements specified in this section.



(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.

(3) Reverse repurchase agreements may be utilized only when either of the following conditions are met:

(A) The security was owned or specifically committed to purchase, by the local agency, prior to December 31, 1994, and was sold using a reverse repurchase agreement on December 31, 1994.

(B) The security to be sold on reverse repurchase agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale; the total of all reverse repurchase agreements on investments owned by the local agency not purchased or committed to purchase, prior to December 31, 1994, does not exceed 20 percent of the base value of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security.

(4) After December 31, 1994, a reverse repurchase agreement may not be entered into with securities not sold on a reverse repurchase agreement and purchased, or committed to purchase, prior to that date, as a means of financing or paying for the security sold on a reverse repurchase agreement, but may only be entered into with securities owned and previously paid for for a minimum of 30 days prior to the settlement of the reverse repurchase agreement, in order to supplement the yield on securities owned and previously paid for or to provide funds for the immediate payment of a local agency obligation. Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement, on securities originally purchased subsequent to December 31, 1994, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement, unless the reverse repurchase agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security. Reverse repurchase agreements specified in subparagraph (B) of paragraph (3) may not be entered into unless the percentage restrictions specified in that subparagraph are met, including the total of any reverse repurchase agreements specified in subparagraph (A) of paragraph (3).

(5) Investments in reverse repurchase agreements or similar investments in which the local agency sells securities prior to



purchase, may only be made upon prior approval of the governing body of the local agency.

(6) (A) “Repurchase agreement” means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank’s customer book-entry account may be used for book-entry delivery.

(B) “Securities,” for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) “Reverse repurchase agreement” means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) For purposes of this section, the base value of the local agency’s pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements or other similar borrowing methods.

(E) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(F) Repurchase agreements and reverse repurchase agreements shall only be made with primary dealers of the Federal Reserve Bank of New York.

(j) Medium-term notes of a maximum of five years maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of “A” or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency’s surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies investing in the securities and obligations as authorized by subdivisions (a) to (l), inclusive, of this section and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either:

(1) Attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services.



(2) Retain an investment adviser registered with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, and with assets under management in excess of five hundred million dollars (\$500,000,000).

The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money that may be invested pursuant to this section.

(l) Notwithstanding anything to the contrary contained in this section, Section 53635, or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(m) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(n) Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 15. Section 53601.6 is added to the Government Code, to read:



53601.6. (a) A local agency shall not invest any funds pursuant to this article in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

(b) A local agency shall not invest any funds pursuant to this article in any security that could result in zero interest accrual if held to maturity. However, a local agency may hold prohibited instruments until their maturity dates. The limitation in this subdivision shall not apply to local agency investments in shares of beneficial interest issued by diversified management companies registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, and following) that are authorized for investment pursuant to subdivision (k) of Section 53601.

SEC. 16. Section 53630.1 is added to the Government Code, to read:

53630.1. The Legislature hereby finds that the solvency and creditworthiness of each individual local agency can impact the solvency and creditworthiness of the state and other local agencies within the state. Therefore, to protect the solvency and creditworthiness of the state and all of its political subdivisions, the Legislature hereby declares that the deposit and investment of public funds by local officials and local agencies is an issue of statewide concern.

SEC. 17. Section 53631.5 is added to the Government Code, to read:

53631.5. (a) A local agency shall not invest any funds pursuant to this article in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

(b) A local agency shall not invest any funds pursuant to this article in any security that could result in zero interest accrual if held to maturity. However, a local agency may hold prohibited instruments until their maturity dates. The limitation in this subdivision shall not apply to local agency investments in shares of beneficial interest issued by diversified management companies registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, and following) that are authorized for investment pursuant to subdivision (k) of Section 53601.

SEC. 18. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, savings associations or federal associations, credit unions, or federally insured industrial loan companies in this state selected by the treasurer or other official having the legal custody of the money; or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the investments set forth below. A local agency



purchasing or obtaining any securities described in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of all the securities to the local agency, including those purchased for the agency by financial advisors, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book-entry delivery. For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency.

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized



by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(g) Commercial paper of “prime” quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody’s Investors Service, Inc., or Standard and Poor’s Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars (\$500,000,000) and having an “A” or higher rating for the issuer’s debt, other than commercial paper, if any, as provided for by Moody’s Investors Service, Inc., or Standard and Poor’s Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency’s surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency’s money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. “Dollar-weighted average maturity” means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency’s surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager’s office, budget office, auditor-controller’s office, or treasurer’s office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(i) (1) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section,



so long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.

(3) Reverse repurchase agreements may be utilized only when either of the following conditions are met:

(A) The security was owned or specifically committed to purchase, by the local agency, prior to repurchase agreement on December 31, 1994, and was sold using a reverse repurchase agreement on December 31, 1994.

(B) The security to be sold on reverse repurchase agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale, the total of all reverse repurchase agreements on investments owned by the local agency not purchased or committed to purchase, prior to December 31, 1994, does not exceed 20 percent of the base value of the portfolio, and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security.

(4) After December 31, 1994, a reverse repurchase agreement may not be entered into with securities not sold on a reverse repurchase agreement and purchased, or committed to purchase, prior to that date, as a means of financing or paying for the security sold on a reverse repurchase agreement, but may only be entered into with securities owned and previously paid for, for a minimum of 30 days prior to the settlement of the reverse repurchase agreement, in order to supplement the yield on securities owned and previously paid for or to provide funds for the immediate payment of a local agency obligation. Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement, on securities originally purchased subsequent to December 31, 1994, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement, unless the reverse repurchase agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security. Reverse repurchase agreements specified in subparagraph (B) of paragraph (3) may not be entered into unless the percentage restrictions specified in that subparagraph are met, including the



total of any reverse repurchase agreements specified in subparagraph (A) of paragraph (3).

(5) Investments in reverse repurchase agreements or similar investments in which the local agency sells securities prior to purchase, may only be made upon prior approval of the governing body of the local agency.

(6) (A) “Repurchase agreement” means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank’s customer book-entry account may be used for book-entry delivery.

(B) “Securities,” for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) “Reverse repurchase agreement” means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.

(D) For purposes of this section, the base value of the local agency’s pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements or other similar borrowing methods.

(E) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(F) Repurchase agreements and reverse repurchase agreements shall only be made with primary dealers of the Federal Reserve Bank of New York.

(j) Medium-term notes of a maximum of five years’ maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of “A” or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency’s surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies investing in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, of this section and which comply with the investment restrictions of this article and Article 1 (commencing with Section 53600). To be eligible for investment



pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars (\$500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(l) Notes, bonds, or other obligations which are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(m) Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 19. Section 53821.5 is added to the Government Code, to read:

53821.5. Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.

SEC. 20. Section 53841.5 is added to the Government Code, to read:

53841.5. Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.



SEC. 21. Section 53852.5 is added to the Government Code, to read:

53852.5. Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.

SEC. 22. Section 53859.02 of the Government Code is amended to read:

53859.02. (a) A local agency may borrow money pursuant to this article, the indebtedness to be represented by a grant anticipation note or notes issued to the lender pursuant to this article. The money borrowed may be used and expended by the local agency solely for the purpose for which the grant or loan is to be received.

(b) Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.

