



Bill Number: H.B. 2347

Yarbrough Floor Amendment

Reference to: House engrossed bill

Amendment drafted by: Bill Ritz

FLOOR AMENDMENT EXPLANATION

The Yarbrough Floor Amendment expands the list of eligible investments for monies managed by treasurers of counties, noncharter cities or towns.

Background:

- Allows a treasurer to invest in special taxing district bonds, notes, or other evidences of indebtedness, including registered warrants.
- Eliminates the restriction that treasurers may invest only in bonds, debentures, and notes issued by corporations organized and doing business in the U.S.
- Allows treasurers to invest in any bonds, debentures, notes, or other evidences of indebtedness that are denominated in U.S. currency and rated "A" or above by two nationally recognized rating agencies.

Amendment explanation prepared by Bill Ritz

3/25/2013

YARBROUGH FLOOR AMENDMENT

SENATE AMENDMENTS TO H.B. 2347

(Reference to House engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 35-323, Arizona Revised Statutes, is amended to
3 read:

4 35-323. Investing public monies; bidding; security and other
5 requirements

6 A. The treasurer shall invest and reinvest public monies in securities
7 and deposits with a maximum maturity of five years. All public monies shall
8 be invested in eligible investments. Eligible investments are:

9 1. Certificates of deposit in eligible depositories.

10 2. Deposits in one or more federally insured banks or savings and loan
11 associations placed in accordance with the procedures prescribed in section
12 35-323.01.

13 3. Interest bearing savings accounts in banks and savings and loan
14 institutions doing business in this state whose accounts are insured by
15 federal deposit insurance for their industry, but only if deposits in excess
16 of the insured amount are secured by the eligible depository to the same
17 extent and in the same manner as required under this article.

18 4. Repurchase agreements with a maximum maturity of one hundred eighty
19 days.

20 5. The pooled investment funds established by the state treasurer
21 pursuant to section 35-326.

22 6. Obligations issued or guaranteed by the United States or any of the
23 senior debt of its agencies, sponsored agencies, corporations, sponsored
24 corporations or instrumentalities.

25 7. Bonds, notes or other evidences of indebtedness of this state or
26 any of its counties, incorporated cities or towns, ~~or~~ school districts ~~OR~~

1 SPECIAL TAXING DISTRICTS, INCLUDING REGISTERED WARRANTS THAT SHALL BEAR
2 INTEREST PURSUANT TO SECTION 11-635.

3 8. Bonds, notes or evidences of indebtedness of any county, municipal
4 district, municipal utility or special taxing district of any state that are
5 payable from revenues, earnings or a special tax specifically pledged for the
6 payment of the principal and interest on the obligations, and for the payment
7 of which a lawful sinking fund or reserve fund has been established and is
8 being maintained, but only if no default in payment on principal or interest
9 on the obligations to be purchased has occurred within five years of the date
10 of investment, or, if such obligations were issued less than five years
11 before the date of investment, no default in payment of principal or interest
12 has occurred on the obligations to be purchased nor any other obligations of
13 the issuer within five years of the investment.

14 9. Bonds, notes or evidences of indebtedness issued by any county
15 improvement district or municipal improvement district of any state to
16 finance local improvements authorized by law, if the principal and interest
17 of the obligations are payable from assessments on real property within the
18 improvement district. An investment shall not be made if:

19 (a) The face value of all such obligations, and similar obligations
20 outstanding, exceeds fifty per cent of the market value of the real property,
21 and if improvements on which the bonds or the assessments for the payment of
22 principal and interest on the bonds are liens inferior only to the liens for
23 general ad valorem taxes.

24 (b) A default in payment of principal or interest on the obligations
25 to be purchased has occurred within five years of the date of investment, or,
26 if the obligations were issued less than five years before the date of
27 investment, a default in the payment of principal or interest has occurred on
28 the obligations to be purchased or on any other obligation of the issuer
29 within five years of the investment.

1 10. Commercial paper of prime quality that is rated within the top two
2 ratings by a nationally recognized rating agency. All commercial paper must
3 be issued by corporations organized and doing business in the United States.

4 11. Bonds, debentures, ~~and~~ notes OR OTHER EVIDENCES OF INDEBTEDNESS
5 that are ~~issued by corporations organized and doing business in the United~~
6 ~~States and that are rated within the top three ratings by a nationally~~
7 ~~recognized rating agency~~ DENOMINATED IN UNITED STATES DOLLARS AND THAT CARRY
8 AT A MINIMUM AN "A" OR BETTER RATING, AT THE TIME OF PURCHASE, FROM AT LEAST
9 TWO NATIONALLY RECOGNIZED RATING AGENCIES.

10 12. Negotiable or brokered certificates of deposit issued by a
11 nationally or state chartered bank or savings and loan association.

12 13. Securities of or any other interests in any open-end or closed-end
13 management type investment company or investment trust, including exchange
14 traded funds whose underlying investments are invested in securities allowed
15 by state law, registered under the investment company act of 1940 (54 Stat.
16 789; 15 United States Code sections 80a-1 through 80a-64), as amended.

17 B. Certificates of deposit shall be purchased from the eligible
18 depository bidding the highest permissible rate of interest. No monies over
19 one hundred thousand dollars may be awarded at any interest rate less than
20 one hundred three per cent of the equivalent bond yield of the offer side of
21 United States treasury bills having a similar term. If the eligible
22 depository offering to pay the highest rate of interest has bid only for a
23 portion of the monies to be awarded, the remainder of the monies shall be
24 awarded to eligible depositories bidding the next highest rates of interest.

25 C. An eligible depository is not eligible to receive total aggregate
26 deposits from this state and all its subdivisions in an amount exceeding
27 twice its capital structure as outlined in the last call of condition of the
28 superintendent of financial institutions.

29 D. If two or more eligible depositories submit bids of an identical
30 rate of interest for all or any portion of the monies to be deposited, the
31 award of the deposit of the monies shall be made to the eligible depository

1 among those submitting identical bids having, at the time of the bid opening,
2 the lowest ratio of total public deposits in relation to its capital
3 structure.

4 E. Each bid submitted, and not withdrawn prior to the time specified,
5 constitutes an irrevocable offer to pay interest as specified in the bid on
6 the deposit, or portion bid for, and the award of a deposit in accordance
7 with this section obligates the depository to accept the deposit and pay
8 interest as specified in the bid pursuant to which the deposit is awarded.

9 F. The treasurer shall maintain a record of all bids received and
10 shall make available to the board of deposit at its next regularly scheduled
11 meeting a correct list showing the bidders, the bids received and the amount
12 awarded. These records shall be available to the public and shall be kept in
13 the possession of the treasurer for not less than two years from the date of
14 the report.

15 G. Any eligible depository, before receiving a deposit in excess of
16 the insured amount under this article, shall deliver collateral for the
17 purposes of this subsection equal to at least one hundred one per cent of the
18 deposit. The collateral shall be any of the following:

19 1. A bond executed by a surety company that is approved by the
20 treasury department of the United States and authorized to do business in
21 this state. The bond shall be approved as to form by the legal advisor of
22 the treasurer.

23 2. Securities or instruments of the following character:

24 (a) United States government or agency obligations.

25 (b) State, county, school district and other district municipal bonds.

26 (c) Registered warrants of this state, a county or other political
27 subdivisions of this state, when offered as security for monies of the state,
28 county or political subdivision by which they are issued.

29 (d) First mortgages and trust deeds on improved, unencumbered real
30 estate located in this state. No single first mortgages or trust deeds may
31 represent more than ten per cent of the total collateral. The treasurer may

1 require that the first mortgages or trust deeds comprising the total
2 collateral security be twice the amount the eligible depository receives on
3 deposit. First mortgages or trust deeds qualify as collateral subject to the
4 following limitations:

5 (i) The promissory note or other evidences of indebtedness secured by
6 such first mortgage or trust deed shall have been in existence for at least
7 three years and shall not have been in default during this period.

8 (ii) An eligible depository shall at its own expense execute, deposit
9 with the treasurer and record with the appropriate county recorder a complete
10 sale and assignment with recourse in a form approved by the attorney general,
11 together with an unconditional assumption of obligation to promptly pay to
12 the entitled parties public monies in its custody upon lawful demand and
13 tender of resale and assignment.

14 Eligible depositories may deposit the security described in this subdivision
15 with the state treasurer, and county, city or town treasurers may accept the
16 security described in this subdivision at their option.

17 3. The safekeeping receipt of a federal reserve bank or any bank
18 located in a reserve city, or any bank authorized to do business in this
19 state, whose combined capital, surplus and outstanding capital notes and
20 debentures on the date of the safekeeping receipt are ten million dollars or
21 more, evidencing the deposit therein of any securities or instruments
22 described in this section. A safekeeping receipt shall not qualify as
23 security, if issued by a bank to secure its own public deposits, unless
24 issued directly through its trust department. The safekeeping receipt shall
25 show upon its face that it is issued for the account of the treasurer and
26 shall be delivered to the treasurer. The safekeeping receipt may provide for
27 the substitution of securities or instruments which qualify under this
28 section with the affirmative act of the treasurer.

29 H. The securities, instruments or safekeeping receipt for the
30 securities, instruments or warrants shall be accepted at market value if not
31 above par, and, if at any time their market value becomes less than the

1 deposit liability to that treasurer, additional securities or instruments
2 required to guarantee deposits shall be deposited immediately with the
3 treasurer who made the deposit and deposited by the eligible depository in
4 which the deposit was made.

5 I. The condition of the surety bond, or the deposit of securities,
6 instruments or a safekeeping receipt, must be such that the eligible
7 depository will promptly pay to the parties entitled public monies in its
8 custody, upon lawful demand, and will, when required by law, pay the monies
9 to the treasurer making the deposit.

10 J. Notwithstanding the requirements of this section, any institution
11 qualifying as an eligible depository may accept deposits of public monies to
12 the total then authorized insurance of accounts, insured by federal deposit
13 insurance, without depositing a surety bond or securities in lieu of the
14 surety bond.

15 K. An eligible depository shall report monthly to the treasurer the
16 total deposits of that treasurer and the par value and the market value of
17 any pledged collateral securing those deposits.

18 L. When a security or instrument pledged as collateral matures or is
19 called for redemption, the cash received for the security or instrument shall
20 be held in place of the security until the depository has obtained a written
21 release or provided substitute securities or instruments.

22 M. The surety bond, securities, instruments or safekeeping receipt of
23 an eligible depository shall be deposited with the treasurer making the
24 deposit, and the treasurer shall be the custodian of the bond, securities,
25 instruments or safekeeping receipt. The treasurer may then deposit with the
26 depository public monies then in the treasurer's possession in accordance
27 with this article, but not in an amount in excess of the surety bond,
28 securities, instruments or safekeeping receipt deposited, except for federal
29 deposit insurance.

30 N. The following restrictions on investments are applicable:

1 1. An investment of public operating fund monies shall not be invested
2 for a maturity of longer than five years.

3 2. The board of deposit may order the treasurer to sell any of the
4 securities, and any order shall specifically describe the securities and fix
5 the date upon which they are to be sold. Securities so ordered to be sold
6 shall be sold for cash by the treasurer on the date fixed in the order, at
7 the then current market price. The treasurer and the members of the board
8 are not accountable for any loss occasioned by sales of securities at prices
9 lower than their cost. Any loss or expense shall be charged against earnings
10 received from investment of public funds.

11 3. INVESTMENTS IN COMPANIES IDENTIFIED IN SECTION 35-392, SUBSECTION
12 A, PARAGRAPH 1.

13 0. If the total amount of subdivision monies available for deposit at
14 any time is less than one hundred thousand dollars, the subdivision board of
15 deposit shall award the deposit of the funds to an eligible depository in
16 accordance with an ordinance or resolution of the governing body of the
17 subdivision."

18 Renumber to conform

19 Amend title to conform

3/25/13
11:05 AM
S: BR/tf