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**SENATE BILL 5390**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Dansel, Liias, and Keiser; by request of State Treasurer

AN ACT Relating to implementing and operating state and county government investment pools; amending RCW 36.29.022, 36.29.024, 36.29.020, 39.59.010, 39.59.020, 39.60.010, 39.60.020, 39.60.030, 39.60.040, 39.60.050, and 43.84.080; reenacting and amending RCW 43.250.020; adding a new section to chapter 39.59 RCW; adding a new chapter to Title 36 RCW; recodifying RCW 36.29.022 and 36.29.024; repealing RCW 39.59.030 and 43.250.090; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that state and county government administered external investment pools provide an important way to responsibly invest state and local funds for the benefit of governments and their taxpayers. The legislature also finds that financial markets into which these pools invest are becoming more complex and that federal regulators are increasing their oversight of these valuable investment pools. The legislature intends to preserve, protect, and enhance the value provided by state and county administered investment pools by providing a more complete statutory framework for the creation and operation of the pools. Specifically, the legislature intends to create minimum disclosure, reporting, investment standards and policies, and training requirements to improve transparency and public confidence.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Eligible entity" means any political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts. "Eligible entity" does not mean the state or any of its agencies.

(2) "External pool" means a pool in which funds of more than one separate legal governmental entity are commingled by a treasurer into a county administered pool for the purpose of investment.

(3) "Funds" means funds of an eligible entity.

(4) "Maturity" means the period remaining until the date on which the principal amount of a security must unconditionally be paid.

**Sec.**  RCW 36.29.022 and 1986 c 294 s 11 are each amended to read as follows:

(1) Upon the request of one or several ((~~units of local government~~))eligible entities that invest their money with the county under ((~~the provisions of~~)) RCW 36.29.020, the treasurer of that county may combine those ((~~units'~~))eligible entities' moneys in an external pool for the purposes of investment.

(2) If an external pool is created pursuant to this section, it must be available for the investment of funds of any eligible entity that invests its money with the county under RCW 36.29.020, and a county treasurer must follow the request from the eligible entity to invest its funds in the external pool.

NEW SECTION. **Sec.**  If authorized by statute, ordinance, or other appropriate official action of an eligible entity, an eligible entity may invest funds in an external pool operated by the county in which the eligible entity is situated. If an eligible entity is situated within more than one county that operates an external pool, the eligible entity may invest in either or both external pools.

NEW SECTION. **Sec.**  Every county treasurer that operates an external pool must:

(1) Have policies and procedures for the operation of the external pool that are approved by the county finance committee and that have received certification from a statewide association comprised of municipal treasurers;

(2) Provide appropriate disclosures regarding the operation and management of the external pool consistent with securities and exchange commission form N-1A or its successor;

(3) Set certain minimum continuing education standards for staff members tasked with managing the external pool;

(4) Provide reports to the participants of the external pool on a monthly basis that include, but are not limited to, portfolio holdings and market value; and

(5) Obtain review by external advisors familiar with the operation of external pools at least once every three years.

NEW SECTION. **Sec.**  The dollar-weighted average portfolio maturity for securities held in an external pool must not exceed three years. The maturity must be used for all securities in calculating the dollar-weighted average portfolio maturity.

Beginning the effective date of this section, an external pool that has a dollar-weighted average portfolio maturity in excess of three years must purchase securities, as new funds are invested or as securities in the external pool mature, in a manner that will bring the external pool into compliance at the earliest possible date.

**Sec.**  RCW 36.29.024 and 2009 c 553 s 1 are each amended to read as follows:

The county treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs for the operation of an external pool and to repay any county funds appropriated and expended for the initial administrative costs of establishing ((~~a county investment~~))an external pool provided in RCW 36.29.022 (as recodified by this act). These funds shall be used by the county treasurer as a revolving fund to defray the cost of administering the external pool without regard to budget limitations. Any credits or payments to ((~~political subdivisions~~))eligible entities shall be calculated and made in a manner which equitably reflects the differing amounts of the ((~~political subdivision's~~))eligible entities' respective deposits in the ((~~county investment~~))external pool and the differing periods of time for which the amounts were placed in the ((~~county investment~~))external pool. ((~~A county investment pool must be available for investment of funds of any local government that invests its money with the county under the provisions of RCW 36.29.020, and a county treasurer shall follow the request from the local government to invest its funds in the pool.~~)) As used in this section "actual expenses" include only the county treasurer's direct and out-of-pocket costs and do not include indirect or loss of opportunity costs. As used in this section, "direct costs" means those costs that can be identified specifically with the administration of ((~~the county investment~~))an external pool. Direct costs include: (1) Compensation of employees for the time devoted and identified specifically to administering the external pool; and (2) the cost of materials, services, or equipment acquired, consumed, or expended specifically for the purpose of administering the external pool.

NEW SECTION. **Sec.**  The office of the state treasurer, in consultation with the Washington state association of county treasurers, must develop and maintain a list of educational opportunities for state and local government personnel including, but not limited to, elected officials, local finance committees, county prosecutors, city attorneys, treasurers, and local officials responsible for investing public funds.

**Sec.**  RCW 36.29.020 and 1999 c 18 s 4 are each amended to read as follows:

The county treasurer shall keep all moneys belonging to the state, or to any county, in his or her own possession until disbursed according to law. The county treasurer shall not place the same in the possession of any person to be used for any purpose; nor shall he or she loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depositary. Any municipal corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer. ((~~The county treasurer may invest in savings or time accounts in designated qualified public depositaries or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED,~~)) Five percent of the earnings, with an annual maximum of fifty dollars, on each transaction authorized by the governing body shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the earnings become available to the governing body((~~: PROVIDED FURTHER, That~~)). If such investment service fee amounts to five dollars or less, the county treasurer or other municipal corporation treasurer may waive such fee.

If in the judgment of the governing body of the municipal corporation or the county treasurer it is necessary to redeem or to sell any of the purchased securities before their ultimate maturity date, the governing body may, by resolution, direct the county treasurer pursuant to RCW 36.29.010(8) to cause such redemption to be had at the redemption value of the securities or to sell the securities at not less than market value and accrued interest.

Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not taken any action pertaining to the investment of any such funds, the county finance committee shall direct the county treasurer, under the investment policy of the county finance committee, to invest, to the maximum prudent extent, such funds or any portion thereof ((~~in savings or time accounts in designated qualified public depositaries or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, That~~)). The county treasurer shall have the power to select the specific qualified financial institution in which the funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited.

**Sec.**  RCW 39.59.010 and 2002 c 332 s 22 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Bond" means any agreement which may or may not be represented by a physical instrument, including but not limited to bonds, notes, warrants, or certificates of indebtedness, that evidences an obligation under which the issuer agrees to pay a specified amount of money, with or without interest, at a designated time or times either to registered owners or bearers.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation, authority, or other instrumentality created by such an entity.

(3) ((~~"Money market fund" means a mutual fund the portfolio which consists of only bonds having maturities or demand or tender provisions of not more than one year, managed by an investment advisor who has posted with the risk management division of the office of financial management a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030 (2) or (3).~~

~~(4) "Mutual fund" means a diversified mutual fund registered with the federal securities and exchange commission and which is managed by an investment advisor with assets under management of at least five hundred million dollars and with at least five years' experience in investing in bonds authorized for investment by this chapter and who has posted with the risk management division of the office of financial management a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030(1).~~

~~(5)~~)) "State" includes a state, agencies, authorities, and instrumentalities of a state, and public corporations created by a state or agencies, authorities, or instrumentalities of a state.

(4) "State of Washington" does not include the state investment board.

**Sec.**  RCW 39.59.020 and 1988 c 281 s 2 are each amended to read as follows:

In addition to any other investment authority specifically granted by law ((~~and notwithstanding any provision of law to the contrary~~))to the state of Washington or a local government in the state of Washington, the state of Washington and local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment, in((~~:~~

~~(1) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;~~

~~(2) General obligation bonds of a state other than the state of Washington and general obligation bonds of a local government of a state other than the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;~~

~~(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment; or~~

~~(4) Any investments authorized by law for the treasurer of the state of Washington or any local government of the state of Washington other than a metropolitan municipal corporation but, except as provided in chapter 39.58 RCW, such investments shall not include certificates of deposit of banks or bank branches not located in the state of Washington~~))investments authorized under this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 39.59 RCW to read as follows:

The state of Washington and any local government in the state of Washington may invest in:

(1) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(2) General obligation bonds of a state other than the state of Washington and general obligation bonds of a local government of a state other than the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment;

(4) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(5) In state, county, municipal, or school district bonds, or in warrants of taxing districts of the state. Such bonds and warrants must be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(6) In motor vehicle fund warrants when authorized by agreement between the state treasurer and the department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;

(7) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(8) Bankers' acceptances purchased on the secondary market;

(9) Notes, bonds, or debentures of savings and loan associations, banks, mutual savings banks, savings and loan service corporations operating with approval of the federal home loan bank, and corporate mortgage companies. The notes, bonds, or debentures must be rated not less than "A" by a nationally recognized rating agency or be insured or guaranteed by an agency of the federal government or by private insurer authorized to do business in the state. The notes, bonds, and debentures insured or guaranteed by a private insurer must also be backed by a pool of mortgages equal to the amount of the notes, bonds, or debentures;

(10) Commercial paper purchased in the secondary market. The state of Washington and local governments in the state of Washington that invest in commercial paper must adhere to the investment policies and procedures adopted by the state investment board.

**Sec.**  RCW 39.60.010 and 1939 c 32 s 1 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful for ((~~the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision of the state, or any political or public corporation of the state, or for~~)) any insurance company, savings and loan association, or ((~~for~~)) any bank, trust company, or other financial institution, operating under the laws of the state of Washington, or ((~~for~~)) any executor, administrator, guardian or conservator, trustee, or other fiduciary to invest its funds or the moneys in its custody or possession, eligible for investment, in notes or bonds secured by mortgage which the federal housing administrator has insured or has made a commitment to insure in obligations of national mortgage associations, in debentures issued by the federal housing administrator, and in the bonds of the home owner's loan corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as the home owner's loan act of 1933, passed by the congress of the United States and approved June 13, 1933, and in bonds of any other corporation which is or hereafter may be created by the United States, as a governmental agency or instrumentality.

**Sec.**  RCW 39.60.020 and 1933 ex.s. c 37 s 2 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be ((~~also~~)) lawful for ((~~the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivisions of the state, or any political or public corporation of the state, or for~~)) any insurance company, savings and loan association, building and loan association, or ((~~for~~)) any bank, trust company, or other financial institution, operating under the laws of the state of Washington, or ((~~for~~)) any executor, administrator, guardian or conservator, trustee, or other fiduciary, to exchange any mortgages, contracts, judgments, or liens owned or held by it, for the bonds of the home owners' loan corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as the home owners' loan act of 1933, passed by the congress of the United States and approved June 13, 1933, or for the bonds of any other corporation which is or hereafter may be created by the United States as a governmental agency or instrumentality; and to accept said bonds at their par value in any such exchange.

**Sec.**  RCW 39.60.030 and 1939 c 32 s 2 are each amended to read as follows:

Wherever, by statute of this state, collateral is required as security for the deposit of ((~~public or other~~)) funds other than public funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund is required to be maintained consisting of designated securities, the bonds and other securities herein made eligible for investment shall also be eligible for such purpose.

**Sec.**  RCW 39.60.040 and 1967 ex.s. c 48 s 1 are each amended to read as follows:

The obligations issued pursuant to said federal home loan bank act and to said Title IV of the national housing act as such acts are now or hereafter amended, and the shares, deposits or accounts of any institution which has the insurance protection provided by Title IV of the national housing act, as now or hereafter amended, may be used at face value or withdrawal value, and bonds or other interest bearing obligations as to which the payment of some but less than the full principal and interest is guaranteed by the United States of America or any agency thereof may be used to the extent of the portion so guaranteed, wherever, by statute of this state or otherwise, collateral is required as security for the deposit of ((~~public or other~~)) funds other than public funds, or deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated security, or wherever by statute of this state or otherwise, any surety, whether personal, corporate, or otherwise, or any collateral or security, is required or permitted for any purpose, including without limitation on the generality of the foregoing, any bond, recognizance, or undertaking.

**Sec.**  RCW 39.60.050 and 1970 ex.s. c 93 s 1 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful for ((~~the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision, or any political or public corporation of the state, or for~~)) any executor, administrator, guardian((~~,~~)) or conservator, trustee, or other fiduciary, to invest its funds or the moneys in its custody or possession, eligible for investment, in notes, bonds, or debentures of savings and loan associations, banks, mutual savings banks, savings and loan service corporations operating with approval of the federal home loan bank, and corporate mortgage companies: PROVIDED, That the notes, bonds or debentures are rated not less than "A" by a nationally recognized rating agency, or are insured or guaranteed by an agency of the federal government or by private insurer authorized to do business in the state: PROVIDED FURTHER, That the notes, bonds and debentures insured or guaranteed by a private insurer shall also be backed by a pool of mortgages equal to the amount of the notes, bonds or debentures.

**Sec.**  RCW 43.84.080 and 1982 c 148 s 1 are each amended to read as follows:

Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient ((~~in the following defined securities or classes of investments:~~

~~(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;~~

~~(2) In state, county, municipal, or school district bonds, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;~~

~~(3) In motor vehicle fund warrants when authorized by agreement between the state treasurer and the department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;~~

~~(4) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;~~

~~(5) Bankers' acceptances purchased on the secondary market;~~

~~(6) Negotiable certificates of deposit of any national or state commercial or mutual savings bank or savings and loan association doing business in the United States: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board;~~

~~(7) Commercial paper: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board~~)).

**Sec.**  RCW 43.250.020 and 2010 1st sp.s. c 10 s 2 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Authorized tribal official" means any officer or employee of a qualifying federally recognized tribe who has been expressly designated by tribal constitution, ordinance, or resolution as the officer having the authority to invest the funds of the qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(2) "Eligible governmental entity" means any county, city, town, municipal corporation, quasi-municipal corporation, public corporation, political subdivision, or special purpose taxing district in the state, an instrumentality of any of the foregoing governmental entities created under chapter 39.34 RCW, any agency of state government, any entity issuing or executing and delivering bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, and any qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(3) "Financial officer" means the board-appointed treasurer of a community or technical college district, the state board for community and technical colleges, or a public four-year institution of higher education.

(4) "Funds" means:

(a) Funds of an eligible governmental entity under the control of or in the custody of any government finance official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands; and

(b) ((~~State funds deposited in the investment pool by the state treasurer that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW, or the proceeds of bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended; and~~

~~(c)~~)) Tribal funds under the control of or in the custody of any qualifying federally recognized tribe or federally recognized political subdivisions thereof, where the tribe warrants that the use or disposition of the funds are either not subject to, or are used and deposited with federal approval, and where the tribe warrants that the funds are not immediately required to meet current demands.

(5) "Government finance official" means any officer or employee of an eligible governmental entity who has been designated by statute or by local charter, ordinance, resolution, or other appropriate official action, as the officer having the authority to invest the funds of the eligible governmental entity. However, the county treasurer shall be deemed the only government finance official for all public agencies for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(6) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (4) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(7) "Qualifying federally recognized tribe or federally recognized political subdivisions thereof" means any federally recognized tribe, located in the state of Washington, authorized and empowered by its constitution or ordinance to invest its surplus funds pursuant to this section, and whose authorized tribal official has executed a deposit agreement with the office of the treasurer.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 39.59.030 (Authorized investments—Mutual funds and money market funds) and 1988 c 281 s 3; and

(2)RCW 43.250.090 (Administration of chapter—Rules) and 1986 c 294 s 9.

NEW SECTION. **Sec.**  RCW 36.29.022 and RCW 36.29.024 are each recodified as new sections in chapter 36.--- RCW (the new chapter created in section 22 of this act).

NEW SECTION. **Sec.**  Sections 1, 2, 4, 5, 6, and 8 of this act constitute a new chapter in Title 36 RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2016.

**--- END ---**