

1 SB178
2 214918-3
3 By Senator Givhan
4 RFD: Governmental Affairs
5 First Read: 02-FEB-22

SYNOPSIS: Under current law, municipal funds and county funds not needed for other purposes may be invested in certain obligations.

This bill would authorize the investment of municipal funds and county funds into commercial paper with the highest credit rating at the time of purchase, or banker's acceptances, and would prohibit the investment of those funds into closed-end management type investment companies.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to local government; to amend Section 11-81-21, Code of Alabama 1975, to further provide the investment of certain municipal and county funds; and to make

1 nonsubstantive, technical revisions to update the existing
2 code language to current style.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 11-81-21, Code of Alabama 1975,
5 is amended to read as follows:

6 "§11-81-21.

7 "(a) Any municipal funds or county funds that a
8 municipal or county governing body determines are not
9 presently needed for other purposes may be invested in any
10 obligations in which sinking funds are now authorized to be
11 invested, pursuant to Section 11-81-19, and in addition, in
12 any of the following:

13 "(1) Direct obligations of (including obligations
14 issued or held in book entry form on the books of) the
15 Department of the Treasury of the United States of America;

16 "(2) Obligations of any of the following federal
17 agencies, which obligations represent the full faith and
18 credit of the United States of America:

19 "a. Farmers Home Administration.

20 "b. General Services Administration.

21 "c. U.S. Maritime Administration.

22 "d. Small Business Administration.

23 "e. Government National Mortgage Association (GNMA).

24 "f. U.S. Department of Housing and Urban Development
25 (HUD).

26 "g. Federal Housing Administration (FHA).

1 "~~3) U.S. dollar-denominated~~ U.S. dollar-denominated
2 deposit accounts and certificates of deposit with banks or
3 savings associations which are qualified public depositories
4 under Chapter 14A of Title 41.

5 "~~(4) Pre-refunded public obligations, defined as~~
6 ~~follows:~~

7 "Any (4) Pre-refunded public obligations, defined as
8 bonds or other obligations of any state of the United States
9 of America or of any agency, instrumentality, or local
10 governmental unit of any such state ~~(i) which are~~ which
11 fulfill all of the following:

12 "a. Are not callable at the option of the obligor
13 prior to maturity or as to which irrevocable notice has been
14 given by the obligor to call on the date specified in the
15 notice ~~, and (ii) which are.~~

16 "b. Are fully secured as to principal and interest
17 and redemption premium, if any, by a fund consisting only of
18 cash or obligations described in subdivision (1) ~~above~~, which
19 ~~fund~~ may be applied only to the payment of such principal of, and
20 and interest and redemption premium, if any, on ~~such,~~ the
21 bonds or other obligations on the maturity date or dates
22 thereof or the specified redemption date or dates pursuant to
23 ~~such~~ the irrevocable instructions referred to in paragraph a.,
24 as appropriate, ~~and (iii) which fund is~~ and the fund is
25 sufficient, as verified by an independent certified public
26 accountant, to pay principal of and interest and redemption,
27 if any, on the bonds or other obligations described in this

1 paragraph on the maturity date or dates thereof or on the
2 redemption date or dates specified in the irrevocable
3 instructions referred to in ~~subclause (i) of this~~ paragraph
4 a., as appropriate, ~~and (iv) which are.~~

5 "c. Are rated, based on the escrow, in the highest
6 rating category of Standard & Poor's Corporation and Moody's
7 Investors Service, Inc., or any successors thereto.

8 "(5)a. Interests, however evidenced, in any common
9 trust fund or other collective investment fund maintained by
10 any national or state chartered bank, trust company or savings
11 association having trust powers, or securities of or other
12 interests in any open-end ~~or closed-end~~ management type
13 investment company or investment trust registered under the
14 Investment Company Act of 1940, as from time to time amended,
15 so long as all of the following requirements are met at the
16 time of purchase and during the term of investment:

17 "~~(i)~~1. At least 65% of the portfolio of such common
18 trust fund, collective investment fund, or investment company
19 or investment trust must consist of investments authorized in
20 subdivisions (1), (2), (3), or (4) ~~above, and (ii) the.~~

21 "2. The remainder of the portfolio ~~(if any, but not~~
22 ~~more than 35%),~~ if any, but in no case more than 35 percent,
23 may consist only of one or more of the following investments:

24 "~~(x) obligations~~ (i) Obligations issued or
25 guaranteed by any of the following agencies: Federal National
26 Mortgage Association (FNMA), Federal Home Loan Mortgage
27 Corporation (FHLMC), including FNMA, and FHLMC participation

1 certificates, Federal Land Banks, Central Bank for
2 Cooperatives, Federal Intermediate Credit Banks, Student Loan
3 Marketing Association, and Federal Home Loan Banks, ~~(y)~~
4 mortgage.

5 "(ii) Mortgage related securities (as that term is
6 defined in Section 3(a)(41) of the Securities Exchange Act of
7 1934 (15 U.S.C. § 78c(a)(41)), ~~or (z) repurchase~~.

8 "(iii) Repurchase agreements fully collateralized by
9 obligations, securities, or investments otherwise authorized
10 under ~~subdivisions 5(i)-(ii)~~ this subdivision, so long as the
11 common trust fund, collective investment fund, investment
12 company, or investment trust takes possession and delivery of
13 the collateral for any repurchase agreement either directly or
14 through an authorized custodian.

15 "b. The fact that any financial institution making
16 ~~such investment~~ an investment as described in paragraph a. on
17 behalf of the municipality or county, or any affiliate of such
18 financial institution, is providing services to the investment
19 company or investment trust as an investment advisor, sponsor,
20 distributor, custodian, transfer agent, registrar, or
21 otherwise, and is receiving reasonable remuneration for such
22 services, shall not preclude such institution from making the
23 investment in the securities of such investment company or
24 investment trust; provided, however, that with respect to any
25 account for municipal funds or county funds to which fees are
26 charged for such services, the said financial institution
27 shall disclose ~~(by prospectus, account statement, or~~

1 ~~otherwise)~~, by prospectus, account statement, or otherwise, to
2 the beneficiary of such account or, to any third party
3 directing investments, ~~the basis (expressed as a percentage of~~
4 ~~asset value or otherwise)~~, expressed as a percentage of asset
5 value or otherwise, upon which the fee is calculated.

6 "(6) Commercial paper with the highest credit rating
7 at the time of purchase.

8 "(7) Banker's acceptances.

9 "(b) The terms "municipal funds" and "county funds"
10 as used in this section shall include all general, special,
11 permanent, trust, and other funds, regardless of source or
12 purpose, held or administered by any county, city, or town, or
13 by any officer or agency thereof, in the State of Alabama.

14 "(c) Investments of municipal funds or county funds
15 shall be made by the officer or agency controlling their
16 disposition. ~~Such~~ The county, city, or town, or official or
17 agency thereof, may at any time sell ~~such~~ obligations
18 purchased pursuant to this section, and the money received
19 from ~~such~~ the sale and the interest and profits on ~~such~~ the
20 investment shall be credited to the fund from which the
21 investment was made. Any ~~such~~ obligation purchased pursuant to
22 this section may be deposited for safekeeping with any bank,
23 trust company, or savings association organized either under
24 the laws of the State of Alabama or of the United States."

25 Section 2. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

