

Code: Section: [Up^](#) [Add To My Favorites](#)**GOVERNMENT CODE - GOV****TITLE 5. LOCAL AGENCIES [50001 - 57607]** (Title 5 added by Stats. 1949, Ch. 81.)**DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]** (Division 2 added by Stats. 1949, Ch. 81.)**PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]** (Part 1 added by Stats. 1949, Ch. 81.)**CHAPTER 4. Financial Affairs [53600 - 53997]** (Chapter 4 added by Stats. 1949, Ch. 81.)**ARTICLE 1. Investment of Surplus [53600 - 53610]** (Article 1 added by Stats. 1949, Ch. 81.)

53600. As used in this article, "local agency" means county, city, city and county, including a chartered city or county, school district, community college district, public district, county board of education, county superintendent of schools, or any public or municipal corporation.

(Amended by Stats. 1987, Ch. 887, Sec. 2.)

53600.3. Except as provided in subdivision (a) of Section 27000.3, all 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, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, 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 of an overall strategy, investments may be acquired as authorized by law.

(Amended by Stats. 1996, Ch. 749, Sec. 4. Effective January 1, 1997.)

53600.5. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or 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.

(Amended by Stats. 1996, Ch. 749, Sec. 5. Effective January 1, 1997.)

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.

(Added by Stats. 1995, Ch. 784, Sec. 13. Effective January 1, 1996.)

53601. This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, Section 53635 shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having moneys in a sinking fund or moneys in its treasury not required for the immediate needs of the local agency may invest any portion of the moneys 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 advisers, 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 specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. 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 or securities lending 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) Registered treasury notes or bonds of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.
- (e) Bonds, notes, warrants, or other evidences of indebtedness of a 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.
- (f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.
- (g) Bankers' acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances shall not exceed 180 days' maturity or 40 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 30 percent of the agency's moneys 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 moneys in its treasury in a manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

(1) The entity meets the following criteria:

- (A) Is organized and operating in the United States as a general corporation.
- (B) Has total assets in excess of five hundred million dollars (\$500,000,000).
- (C) Has debt other than commercial paper, if any, that is rated in a rating category of "A" or its equivalent or higher by an NRSRO.

(2) The entity meets the following criteria:

- (A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.
- (B) Has programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or a surety bond.
- (C) Has commercial paper that is rated "A-1" or higher, or the equivalent, by an NRSRO.

Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, that have less than one hundred million dollars (\$100,000,000) of investment assets under management, may invest no more than 25 percent of their moneys in eligible commercial paper. Local agencies,

other than counties or a city and county, that have one hundred million dollars (\$100,000,000) or more of investment assets under management may invest no more than 40 percent of their moneys in eligible commercial paper. A local agency, other than a county or a city and a county, may invest no more than 10 percent of its total investment assets in the commercial paper and the medium-term notes of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in subdivision (a) of Section 53635.

(i) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed 30 percent of the agency's moneys that 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), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the moneys are prohibited from 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 a person with investment decisionmaking authority in the administrative office 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 the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of 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 an investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlie 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. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold using a reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) 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 or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty using a reverse repurchase agreement or securities lending agreement 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 or securities lending agreement, unless the reverse repurchase agreement or securities lending 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 or securities lending agreement and the final maturity date of the same security.

(4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may be made only upon prior approval of the governing body of the local agency and shall be made only with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

(5) (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 purposes 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) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) 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, securities lending agreements, or other similar borrowing methods.

(F) 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.

(k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, 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 an NRSRO. Purchases of medium-term notes shall not include other instruments authorized by this section and shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section. A local agency, other than a county or a city and a county, may invest no more than 10 percent of its total investment assets in the commercial paper and the medium-term notes of any single issuer.

(l) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (q), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

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

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include commission that the companies may charge and shall not exceed 20 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) 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.

(n) 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 that 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.

(o) A mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond. Securities eligible for investment under this subdivision shall be rated in a rating category of "AA" or its equivalent or better by an NRSRO and have a maximum remaining maturity of five years or less. Purchase of securities authorized by this subdivision shall not exceed 20 percent of the agency's surplus moneys that may be invested pursuant to this section.

(p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (r), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

(1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.

(2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (q), inclusive.

(3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

(q) United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Investments under this subdivision shall be rated in a rating category of "AA" or its equivalent or better by an NRSRO and shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section.

(r) Commercial paper, debt securities, or other obligations of a public bank, as defined in Section 57600.

This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended by Stats. 2020, Ch. 235, Sec. 2. (SB 998) Effective January 1, 2021. Repealed as of January 1, 2026, by its own provisions. See later operative version added by Sec. 3 of Stats. 2020, Ch. 235.)

53601. This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, Section 53635 shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having moneys in a sinking fund or moneys in its treasury not required for the immediate needs of the local agency may invest any portion of the moneys 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 advisers, 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 specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. 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 or securities lending 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) Registered treasury notes or bonds of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.

(e) Bonds, notes, warrants, or other evidences of indebtedness of a 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.

(f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

(g) Bankers' acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances shall not exceed 180 days' maturity or 40 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 30 percent of the agency's moneys 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 moneys in its treasury in a manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

(1) The entity meets the following criteria:

(A) Is organized and operating in the United States as a general corporation.

(B) Has total assets in excess of five hundred million dollars (\$500,000,000).

(C) Has debt other than commercial paper, if any, that is rated in a rating category of "A" or its equivalent or higher by an NRSRO.

(2) The entity meets the following criteria:

(A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.

(B) Has programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or a surety bond.

(C) Has commercial paper that is rated "A-1" or higher, or the equivalent, by an NRSRO.

Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, may invest no more than 25 percent of their moneys in eligible commercial paper. A local agency, other than a county or a city and a county, may invest no more than 10 percent of its total investment assets in the commercial paper and the medium-term notes of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in subdivision (a) of Section 53635.

(i) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed 30 percent of the agency's moneys that 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), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local

agency and the treasurer or other official of the local agency having legal custody of the moneys are prohibited from 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 a person with investment decisionmaking authority in the administrative office 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 the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of 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 an investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlie 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. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold using a reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) 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 or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty using a reverse repurchase agreement or securities lending agreement 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 or securities lending agreement, unless the reverse repurchase agreement or securities lending 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 or securities lending agreement and the final maturity date of the same security.

(4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may be made only upon prior approval of the governing body of the local agency and shall be made only with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

(5) (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 purposes 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) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both

the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) 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, securities lending agreements, or other similar borrowing methods.

(F) 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.

(k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, 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 an NRSRO. Purchases of medium-term notes shall not include other instruments authorized by this section and shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section. A local agency, other than a county or a city and a county, may invest no more than 10 percent of its total investment assets in the commercial paper and the medium-term notes of any single issuer.

(l) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (q), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

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

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include commission that the companies may charge and shall not exceed 20 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) 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.

(n) 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 that 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.

(o) A mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond. Securities eligible for investment under this subdivision shall be rated in a rating category of "AA" or its equivalent or better by an NRSRO and have a maximum remaining maturity of five years or less. Purchase of securities authorized by this subdivision shall not exceed 20 percent of the agency's surplus moneys that may be invested pursuant to this section.

(p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (r), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

(1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.

(2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (q), inclusive.

(3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

(q) United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Investments under this subdivision shall be rated in a rating category of "AA" or its equivalent or better by an NRSRO and shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section.

(r) Commercial paper, debt securities, or other obligations of a public bank, as defined in Section 57600.

This section shall become operative on January 1, 2026.

(Repealed (in Sec. 2) and added by Stats. 2020, Ch. 235, Sec. 3. (SB 998) Effective January 1, 2021. Section operative January 1, 2026, by its own provisions.)

53601.1. The authority of a local agency to invest funds pursuant to Section 53601 includes, in addition thereto, authority to invest in financial futures or financial option contracts in any of the investment categories enumerated in that section.

(Added by Stats. 1983, Ch. 534, Sec. 3.)

53601.2. As used in this article, "corporation" includes a limited liability company.

(Added by Stats. 2004, Ch. 118, Sec. 18. Effective January 1, 2005.)

53601.5. The purchase by a local agency of any investment authorized pursuant to Section 53601 or 53601.1, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a savings association or federal association (as defined by Section 5102 of the Financial Code) or from a brokerage firm designated as a primary government dealer by the Federal Reserve bank.

(Amended by Stats. 2001, Ch. 57, Sec. 2. Effective January 1, 2002.)

53601.6. (a) A local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with Section 53630) in inverse floaters, range notes, or mortgage-derived, interest-only strips.

(b) (1) Except as provided in paragraph (2), a local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with Section 53630) 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 et seq.) that are authorized for investment pursuant to subdivision (l) of Section 53601.

(2) Notwithstanding the prohibition in paragraph (1), a local agency may invest in securities issued by, or backed by, the United States government that could result in zero- or negative-interest accrual if held to maturity, in the event of, and for the duration of, a period of negative market interest rates. A local agency may hold these instruments until their maturity dates.

(c) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended by Stats. 2020, Ch. 235, Sec. 4. (SB 998) Effective January 1, 2021. Repealed as of January 1, 2026, by its own provisions. See later operative version added by Sec. 5 of Stats. 2020, Ch. 235.)

53601.6. (a) A local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with Section 53630) in inverse floaters, range notes, or mortgage-derived, interest-only strips.

(b) A local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with Section 53630) 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 et seq.) that are authorized for investment pursuant to subdivision (l) of Section 53601.

(c) This section shall become operative on January 1, 2026.

(Repealed (in Sec. 4) and added by Stats. 2020, Ch. 235, Sec. 5. (SB 998) Effective January 1, 2021. Section operative January 1, 2026, by its own provisions.)

53601.8. Notwithstanding any other provision of this code, a local agency that has the authority under law to invest funds, at its discretion, may invest a portion of its surplus funds in deposits at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of deposits. The following conditions shall apply:

(a) The local agency shall choose a nationally or state-chartered commercial bank, savings bank, savings and loan association, or credit union in this state to invest the funds, which shall be known as the "selected" depository institution.

(b) The selected depository institution may use a private sector entity to help place local agency deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States and are within the network used by the private sector entity for this purpose.

(c) The selected depository institution shall request that the local agency inform it of depository institutions at which the local agency has other deposits, and the selected depository institution shall provide that information to the private sector entity.

(d) Any private sector entity used by a selected depository institution to help place its local agency deposits shall maintain policies and procedures requiring all of the following:

(1) The full amount of each deposit placed pursuant to subdivision (b) and the interest that may accrue on each such deposit shall at all times be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(2) Every depository institution where funds are placed shall be capitalized at a level that is sufficient, and be otherwise eligible, to receive such deposits pursuant to regulations of the Federal Deposit Insurance Corporation or the National Credit Union Administration, as applicable.

(3) At the time of the local agency's investment with a selected depository institution and no less than monthly thereafter, the private sector entity shall ensure that the local agency is provided with an inventory of all depository institutions in which deposits have been placed on the local agency's behalf, that are within the private sector entity's network.

(4) Within its network, the private sector entity shall ensure that it does not place additional deposits from a particular local agency with any depository institution identified pursuant to subdivision (c) as holding that local agency's deposits if those additional deposits would result in that local agency's total amount on deposit at that depository institution exceeding the Federal Deposit Insurance Corporation or the National Credit Union Administration insurance limit.

(e) If a selected depository uses two or more private sector entities to assist in the placement of a local agency's deposits, the selected depository shall ensure that it does not place additional deposits from a particular local agency with a depository institution if those additional deposits would result in that local agency's total amount on deposit at that depository institution exceeding the Federal Deposit Insurance Corporation or the National Credit Union Administration insurance limit.

(f) The selected depository institution shall serve as a custodian for each such deposit.

(g) On the same date that the local agency's funds are placed pursuant to subdivision (b) by the private sector entity, the selected depository institution shall receive an amount of insured deposits from other financial institutions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution pursuant to subdivision (b).

(h) Notwithstanding subdivisions (a) to (g), inclusive, a credit union shall not act as a selected depository institution under this section unless both of the following conditions are satisfied:

(1) The credit union offers federal depository insurance through the National Credit Union Administration.

(2) The credit union is in possession of written guidance or other written communication from the National Credit Union Administration authorizing participation of federally insured credit unions in one or more deposit placement services and affirming that the moneys held by those credit unions while participating in a deposit placement service will at all times be insured by the federal government.

(i) It is the intent of the Legislature that this section shall not restrict competition among private sector entities that provide placement services pursuant to this section.

(j) The deposits placed pursuant to this section shall be subject to Section 53638 and shall not, in total, exceed 50 percent of the agency's funds that may be invested for this purpose.

(k) This section shall remain in effect until January 1, 2026, and as of that date is repealed.

(Amended (as amended by Stats. 2015, Ch. 181, Sec. 1) by Stats. 2019, Ch. 619, Sec. 1. (AB 945) Effective January 1, 2020. Repealed as of January 1, 2026, by its own provisions. See later operative version, as amended by Sec. 3 of Stats. 2019, Ch. 619.)

53601.8. Notwithstanding any other provision of this code, a local agency that has the authority under law to invest funds, at its discretion, may invest a portion of its surplus funds in deposits at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of deposits. The following conditions shall apply:

(a) The local agency shall choose a nationally or state-chartered commercial bank, savings bank, savings and loan association, or credit union in this state to invest the funds, which shall be known as the "selected" depository institution.

(b) The selected depository institution may use a private sector entity to help place local agency deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States and are within the network used by the private sector entity for this purpose.

(c) The selected depository institution shall request that the local agency inform it of depository institutions at which the local agency has other deposits, and the selected depository institution shall provide that information to the private sector entity.

(d) Any private sector entity used by a selected depository institution to help place its local agency deposits shall maintain policies and procedures requiring all of the following:

(1) The full amount of each deposit placed pursuant to subdivision (b) and the interest that may accrue on each such deposit shall at all times be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(2) Every depository institution where funds are placed shall be capitalized at a level that is sufficient, and be otherwise eligible, to receive such deposits pursuant to regulations of the Federal Deposit Insurance Corporation or the National Credit Union Administration, as applicable.

(3) At the time of the local agency's investment with a selected depository institution and no less than monthly thereafter, the private sector entity shall ensure that the local agency is provided with an inventory of all depository institutions in which deposits have been placed on the local agency's behalf, that are within the private sector entity's network.

(4) Within its network, the private sector entity shall ensure that it does not place additional deposits from a particular local agency with any depository institution identified pursuant to subdivision (c) as holding that local agency's deposits if those additional deposits would result in that local agency's total amount on deposit at that depository institution exceeding the Federal Deposit Insurance Corporation or the National Credit Union Administration insurance limit.

(e) If a selected depository uses two or more private sector entities to assist in the placement of a local agency's deposits, the selected depository shall ensure that it does not place additional deposits from a particular local agency with a depository institution if those additional deposits would result in that local agency's total amount on

deposit at that depository institution exceeding the Federal Deposit Insurance Corporation or the National Credit Union Administration insurance limit.

(f) The selected depository institution shall serve as a custodian for each such deposit.

(g) On the same date that the local agency's funds are placed pursuant to subdivision (b) by the private sector entity, the selected depository institution shall receive an amount of insured deposits from other financial institutions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution pursuant to subdivision (b).

(h) Notwithstanding subdivisions (a) to (g), inclusive, a credit union shall not act as a selected depository institution under this section unless both of the following conditions are satisfied:

(1) The credit union offers federal depository insurance through the National Credit Union Administration.

(2) The credit union is in possession of written guidance or other written communication from the National Credit Union Administration authorizing participation of federally insured credit unions in one or more deposit placement services and affirming that the moneys held by those credit unions while participating in a deposit placement service will at all times be insured by the federal government.

(i) It is the intent of the Legislature that this section shall not restrict competition among private sector entities that provide placement services pursuant to this section.

(j) The deposits placed pursuant to this section shall be subject to Section 53638 and shall not, in total, exceed 30 percent of the agency's funds that may be invested for this purpose.

(k) This section shall become operative on January 1, 2026.

(Repealed and added by Stats. 2019, Ch. 619, Sec. 3. (AB 945) Effective January 1, 2020. Section operative January 1, 2026, by its own provisions.)

53602. The legislative body shall invest only in notes, bonds, bills, certificates of indebtedness, warrants, or registered warrants which are legal investments for savings banks in the State, provided, that the board of supervisors of a county may, by a four-fifths vote thereof, invest in notes, warrants or other evidences of indebtedness of public districts wholly or partly within the county, whether or not such notes, warrants, or other evidences of indebtedness are legal investments for savings banks.

(Amended by Stats. 1954, 1st Ex. Sess., Ch. 10.)

53603. The legislative body may make the investment by direct purchase of any issue of eligible securities at their original sale or after they have been issued.

(Amended by Stats. 1953, Ch. 537.)

53604. The legislative body may sell, or exchange for other eligible securities, and reinvest the proceeds of, the securities purchased.

(Amended by Stats. 1953, Ch. 537.)

53605. From time to time, the legislative body shall sell the securities so that the proceeds may be applied to the purposes for which the original purchase money was placed in the sinking fund or the treasury of the local agency.

(Amended by Stats. 1953, Ch. 537.)

53606. The bonds purchased, which were issued by the purchaser, may be canceled either in satisfaction or sinking fund obligations or otherwise. When canceled, they are no longer outstanding, unless in its discretion, the legislative body holds them uncanceled. While held uncanceled, the bonds may be resold.

(Added by Stats. 1949, Ch. 81.)

53607. The authority of the legislative body to invest or to reinvest funds of a local agency, or to sell or exchange securities so purchased, may be delegated for a one-year period by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked or expires, and shall make a monthly report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year.

(Amended by Stats. 1996, Ch. 749, Sec. 6. Effective January 1, 1997.)

53608. The legislative body of a local agency may deposit for safekeeping with a federal or state association (as defined by Section 5102 of the Financial Code), a trust company or a state or national bank located within this state or with the Federal Reserve Bank of San Francisco or any branch thereof within this state, or with any Federal Reserve bank or with any state or national bank located in any city designated as a reserve city by the Board of Governors of the Federal Reserve System, the bonds, notes, bills, debentures, obligations, certificates of indebtedness, warrants, or other evidences of indebtedness in which the money of the local agency is invested pursuant to this article or pursuant to other legislative authority. The local agency shall take from such financial institution a receipt for securities so deposited. The authority of the legislative body to deposit for safekeeping may be delegated by the legislative body to the treasurer of the local agency; the treasurer shall not be responsible for securities delivered to and received for by a financial institution until they are withdrawn from the financial institution by the treasurer.

(Amended by Stats. 1985, Ch. 983, Sec. 17. Effective September 26, 1985.)

53609. Notwithstanding the provisions of this chapter or any other provisions of this code, funds held by a local agency pursuant to a written agreement between the agency and employees of the agency to defer a portion of the compensation otherwise receivable by the agency's employees and pursuant to a plan for such deferral as adopted by the governing body of the agency, may be invested in the types of investments set forth in Sections 53601 and 53602 of this code, and may additionally be invested in corporate stocks, bonds, and securities, mutual funds, savings and loan accounts, credit union accounts, life insurance policies, annuities, mortgages, deeds of trust, or other security interests in real or personal property. Nothing herein shall be construed to permit any type of investment prohibited by the Constitution.

Deferred compensation funds are public pension or retirement funds for the purposes of Section 17 of Article XVI of the Constitution.

(Amended by Stats. 1979, Ch. 373.)

53610. (a) For purposes of this section, "Proposition 1A receivable" means the right to payment of moneys due or to become due to a local agency, pursuant to clause (iii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII of the California Constitution and Section 100.06 of the Revenue and Taxation Code.

(b) Notwithstanding any other law, a local agency may purchase, with its revenue, Proposition 1A receivables sold pursuant to Section 53999.

(c) A purchaser of Proposition 1A receivables pursuant to this section shall not offer them for sale pursuant to Section 6588.

(Added by Stats. 2009, Ch. 634, Sec. 5. (SB 67) Effective October 19, 2009.)

Code: Section: [Up^](#) [Add To My Favorites](#)**GOVERNMENT CODE - GOV****TITLE 5. LOCAL AGENCIES [50001 - 57607]** (Title 5 added by Stats. 1949, Ch. 81.)**DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]** (Division 2 added by Stats. 1949, Ch. 81.)**PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]** (Part 1 added by Stats. 1949, Ch. 81.)**CHAPTER 4. Financial Affairs [53600 - 53997]** (Chapter 4 added by Stats. 1949, Ch. 81.)**ARTICLE 2. Deposit of Funds [53630 - 53686]** (Article 2 added by Stats. 1949, Ch. 81.)**53630.** As used in this article:

- (a) "Local agency" means county, city, city and county, including a chartered city or county, a community college district, or other public agency or corporation in this state.
- (b) "Treasurer" means treasurer of the local agency.
- (c) "Depository" means a state or national bank, savings association or federal association, a state or federal credit union, or a federally insured industrial loan company, in this state in which the moneys of a local agency are deposited.
- (d) "Agent of depository" means a trust company or trust department of a state or national bank located in this state, including the trust department of a depository where authorized, and the Federal Home Loan Bank of San Francisco, which is authorized to act as an agent of depository for the purposes of this article pursuant to Section 53657.
- (e) "Security" means any of the eligible securities or obligations listed in Section 53651.
- (f) "Pooled securities" means eligible securities held by an agent of depository for a depository and securing deposits of one or more local agencies.
- (g) "Administrator" means the Administrator of Local Agency Security of the State of California.
- (h) "Savings association or federal association" means a savings association, savings and loan association, or savings bank as defined by Section 5102 of the Financial Code.
- (i) "Federally insured industrial loan company" means an industrial loan company licensed under Division 7 (commencing with Section 18000) of the Financial Code, the investment certificates of which are insured by the Federal Deposit Insurance Corporation.
- (j) "Corporation" includes a limited liability company.

(Amended by Stats. 2004, Ch. 118, Sec. 19.7. Effective January 1, 2005.)

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.

(Added by Stats. 1995, Ch. 784, Sec. 16. Effective January 1, 1996.)

53630.5. (a) The definitions in Section 1670 of, and Chapter 1 (commencing with Section 99) of Division 1 of, the Financial Code apply to this section.

(b) In this article, for purposes of being a depository of moneys belonging to or being in the custody of a local agency, the phrases "state or national bank located in this state," "state or national bank," "state or national bank in

this state," and "state or national banks in the state" include, without limitation, any of the following:

- (1) A California branch office of a foreign (other state) state bank that the bank is authorized to maintain under the law of its domicile and federal law.
- (2) A California branch office of a foreign (other state) national bank that the bank is authorized to maintain under federal law.
- (3) A California branch office of a foreign (other nation) bank that the bank is licensed to maintain under Article 3 (commencing with Section 1800) of Chapter 20 of Division 1.1 of the Financial Code.
- (4) A California federal branch of a foreign (other nation) bank that the bank is authorized to maintain under federal law.

(Amended by Stats. 2018, Ch. 92, Sec. 113. (SB 1289) Effective January 1, 2019.)

53631. Under those conditions as the treasurer of a local agency fixes with the approval of the legislative body, he or she may establish accounts at banks within or without the state and deposit money in those accounts to the extent necessary to pay the principal and interest of bonds to pay any warrant that has been presented for payment, or to fund any electronic disbursement of funds from the treasury of the local agency. This article does not apply to deposits for those purposes.

(Amended by Stats. 2001, Ch. 176, Sec. 15. Effective January 1, 2002.)

53632. There are three classes of deposits:

- (a) Inactive deposits.
- (b) Active deposits.
- (c) Interest-bearing active deposits.

(Amended by Stats. 1983, Ch. 105, Sec. 1.5.)

53632.5. There are three classes of security for deposits:

- (a) Securities described in subdivision (m) of Section 53651.
- (b) Securities described in subdivision (p) of Section 53651.
- (c) Securities enumerated in Section 53651, except for those described in subdivisions (m) and (p) of that section.

(Amended by Stats. 1986, Ch. 1132, Sec. 2.)

53633. The treasurer shall determine the amounts of money to be deposited as inactive, active, and interest-bearing active deposits, except as otherwise provided in Section 53679.

(Amended by Stats. 1983, Ch. 105, Sec. 3.)

53634. The treasurer may call in money from inactive deposits and place it in active deposits as current demands require. When there is money in his possession for which there is no demand as inactive deposits, he may place it as active deposits.

(Added by Stats. 1949, Ch. 81.)

53635. (a) This section shall apply to a local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body. However, Section 53601 shall apply to all local agencies that pool money in deposits or investments exclusively with local agencies that have the same governing body.

This section shall be interpreted in a manner that recognizes the distinct characteristics of investment pools and the distinct administrative burdens on managing and investing funds on a pooled basis pursuant to Article 6 (commencing with Section 27130) of Chapter 5 of Division 2 of Title 3.

A local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other agencies may invest in commercial paper pursuant to subdivision (h) of Section 53601, except that the local agency shall be subject to the following concentration limits:

- (1) No more than 40 percent of the local agency's money may be invested in eligible commercial paper.
- (2) No more than 10 percent of the total assets of the investments held by a local agency may be invested in any one issuer's commercial paper.

(b) Notwithstanding Section 53601, the City of Los Angeles shall be subject to the concentration limits of this section for counties and for cities and counties with regard to the investment of money in eligible commercial paper.

(c) A local agency subject to this section may invest in commercial paper, debt securities, or other obligations of a public bank, as defined in Section 57600.

(Amended by Stats. 2019, Ch. 442, Sec. 12. (AB 857) Effective January 1, 2020.)

53635.2. 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, public banks, savings associations, federal associations, credit unions, or federally insured industrial loan companies in this state selected by the treasurer or other official having legal custody of the money; or may be invested in the investments set forth in Section 53601. To be eligible to receive local agency money, a bank, savings association, federal association, or federally insured industrial loan company shall have received an overall rating of not less than "satisfactory" in its most recent evaluation by the appropriate federal financial supervisory agency of its record of meeting the credit needs of California's communities, including low- and moderate-income neighborhoods, pursuant to Section 2906 of Title 12 of the United States Code. Sections 53601.5 and 53601.6 shall apply to all investments that are acquired pursuant to this section.

(Amended by Stats. 2019, Ch. 442, Sec. 13. (AB 857) Effective January 1, 2020.)

53635.7. In making any decision that involves borrowing in the amount of one hundred thousand dollars (\$100,000) or more, the legislative body of the local agency shall discuss, consider, and deliberate each decision as a separate item of business on the agenda of its meeting as prescribed in Chapter 9 (commencing with Section 54950). As used in this section, "borrowing" does not include bank overdrafts or security lending.

(Amended by Stats. 2001, Ch. 176, Sec. 16. Effective January 1, 2002.)

53635.8. Notwithstanding any other provision of this code, a local agency that has the authority under law to invest funds, at its discretion, may invest a portion of its surplus funds in deposits at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of deposits. The following conditions shall apply:

(a) The local agency shall choose a nationally or state-chartered commercial bank, savings bank, savings and loan association, or credit union in this state to invest the funds, which shall be known as the "selected" depository institution.

(b) The selected depository institution may use a private sector entity to help place local agency deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States and are within the network used by the private sector entity for this purpose.

(c) The selected depository institution shall request that the local agency inform it of depository institutions at which the local agency has other deposits, and the selected depository institution shall provide that information to the private sector entity.

(d) Any private sector entity used by a selected depository institution to help place its local agency deposits shall maintain policies and procedures requiring all of the following:

(1) The full amount of each deposit placed pursuant to subdivision (b) and the interest that may accrue on each such deposit shall at all times be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(2) Every depository institution where funds are placed shall be capitalized at a level that is sufficient, and be otherwise eligible, to receive such deposits pursuant to regulations of the Federal Deposit Insurance Corporation or the National Credit Union Administration, as applicable.

(3) At the time of the local agency's investment with a selected depository institution and no less than monthly thereafter, the private sector entity shall ensure that the local agency is provided with an inventory of all depository institutions in which deposits have been placed on the local agency's behalf, that are within the private sector entity's network.

(4) Within its network, the private sector entity shall ensure that it does not place additional deposits from a particular local agency with any depository institution identified pursuant to subdivision (c) as holding that local agency's deposits if those additional deposits would result in that local agency's total amount on deposit at that depository institution exceeding the Federal Deposit Insurance Corporation or the National Credit Union Administration insurance limit.

(e) If a selected depository uses two or more private sector entities to assist in the placement of a local agency's deposits, the selected depository shall ensure that it does not place additional deposits from a particular local agency with a depository institution if those additional deposits would result in that local agency's total amount on deposit at that depository institution exceeding the Federal Deposit Insurance Corporation or the National Credit Union Administration insurance limit.

(f) The selected depository institution shall serve as a custodian for each such deposit.

(g) On the same date that the local agency's funds are placed pursuant to subdivision (b) by the private sector entity, the selected depository institution shall receive an amount of insured deposits from other financial institutions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution for investment pursuant to subdivision (b).

(h) Notwithstanding subdivisions (a) to (g), inclusive, a credit union shall not act as a selected depository institution under this section unless both of the following conditions are satisfied:

(1) The credit union offers federal depository insurance through the National Credit Union Administration.

(2) The credit union is in possession of written guidance or other written communication from the National Credit Union Administration authorizing participation of federally insured credit unions in one or more deposit placement services and affirming that the moneys held by those credit unions while participating in a deposit placement service will at all times be insured by the federal government.

(i) It is the intent of the Legislature that this section shall not restrict competition among private sector entities that provide placement services pursuant to this section.

(j) The deposits placed pursuant to this section shall be subject to Section 53638 and shall not, in total, exceed 30 percent of the agency's funds that may be invested for this purpose.

(Amended (as amended by Stats. 2015, Ch. 181, Sec. 3) by Stats. 2019, Ch. 619, Sec. 4. (AB 945) Effective January 1, 2020.)

53636. Money so deposited is deemed to be in the treasury of the local agency.

(Added by Stats. 1949, Ch. 81.)

53637. The money shall be deposited in any bank, savings association or federal association, state or federal credit union, or federally insured industrial loan company with the objective of realizing maximum return, consistent with prudent financial management, except that money shall not be deposited in any state or federal credit union if a member of the legislative body of a local agency, or any person with investment decisionmaking authority of the administrative office, 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.

(Amended by Stats. 1998, Ch. 81, Sec. 2. Effective January 1, 1999.)

53638. (a) The deposit shall not exceed the shareholder's equity of any depository bank. For the purposes of this subdivision, shareholder's equity shall be determined in accordance with Section 463 of the Financial Code, but shall be deemed to include capital notes and debentures.

(b) The deposit shall not exceed the total of the net worth of any depository savings association or federal association, except that deposits not exceeding a total of five hundred thousand dollars (\$500,000) may be made to a savings association or federal association without regard to the net worth of that depository, if such deposits are insured or secured as required by law.

(c) The deposit to the share accounts of any regularly chartered credit union shall not exceed the total of the unimpaired capital and surplus of the credit union, as defined by rule of the Commissioner of Business Oversight, except that the deposit to any credit union share account in an amount not exceeding five hundred thousand dollars (\$500,000) may be made if the share accounts of that credit union are insured or guaranteed pursuant to Section 14858 of the Financial Code or are secured as required by law.

(d) The deposit in investment certificates of a federally insured industrial loan company shall not exceed the total of the unimpaired capital and surplus of the insured industrial loan company.

(Amended by Stats. 2016, Ch. 277, Sec. 12. (AB 2907) Effective January 1, 2017.)

53639. (a) Except as otherwise provided in Section 53682, the depository shall bear the expenses of transportation of money to and from the depository. If, pursuant to a contract between the treasurer and the depository, the

depository is not required to bear the expense of transportation of money to and from the depository, the treasurer shall secure those transportation services by separate agreement or contract.

(b) (1) A separate agreement or contract for transportation services includes an agreement to procure bank courier or armored car transport services and a contract for the pickup and transportation of moneys received by the treasurer or any other department requiring secure transportation.

(2) The terms of a separate agreement or contract for transportation services may include, but are not limited to, a specification of costs, frequency of pickup, locations of pickup, and any other transportation services that are necessary for the conduct of the treasurer's office.

(Amended by Stats. 2019, Ch. 258, Sec. 1. (SB 789) Effective January 1, 2020.)

53640. Except as otherwise provided in Section 53682, the depository shall handle, collect, and pay all checks, drafts, and other exchange without cost to the local agency.

(Amended by Stats. 1986, Ch. 248, Sec. 92.)

53641. When money is deposited in a depository, the treasurer or other authorized official shall take and preserve a receipt, certificate of deposit, or other evidence of the deposit as he or she requires.

(Amended by Stats. 1986, Ch. 248, Sec. 93.)

53642. The money deposited may be drawn out by check or order of the treasurer or other official authorized to make such deposit.

(Amended by Stats. 1953, Ch. 670.)

53643. The treasurer may deposit any part of the money as agreed upon between the treasurer and the depository.

(Amended by Stats. 1986, Ch. 248, Sec. 94.)

53644. If an agreement is not made:

(a) Active deposits and interest thereon are subject to withdrawal upon the demand of the treasurer or other authorized official, subject to any penalties which may be prescribed by federal law or regulation.

(b) Inactive deposits are subject to notice of at least thirty days before withdrawal.

(Amended by Stats. 1983, Ch. 105, Sec. 7.)

53645. Interest shall be computed and paid by the depository, as follows:

(a) For active deposits upon which interest is payable, interest shall be computed on the average daily balance for the calendar quarter, and shall be paid quarterly.

(b) For inactive deposits, interest shall be computed on a 360-day basis, and shall be paid quarterly.

(Amended by Stats. 1992, Ch. 523, Sec. 5.3. Effective January 1, 1993.)

53646. (a) (1) In the case of county government, the treasurer may annually render to the board of supervisors and any oversight committee a statement of investment policy, which the board shall review and approve at a public meeting. Any change in the policy shall also be reviewed and approved by the board at a public meeting.

(2) In the case of any other local agency, the treasurer or chief fiscal officer of the local agency may annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

(b) (1) The treasurer or chief fiscal officer may render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency. The quarterly report shall be so submitted within 30 days following the end of the quarter covered by the report. Except as provided in subdivisions (e) and (f), this report shall include the type of investment, issuer, date of maturity, par and dollar amount invested on all securities, investments and moneys held by the local agency, and shall additionally include a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties, including lending programs. With respect to all securities held by the local agency, and under management of any outside party that is not also a local agency or the State of California Local Agency Investment Fund, the report shall also include a current market value as of the date of the report, and shall include the source of this same valuation.

(2) The quarterly report shall state compliance of the portfolio to the statement of investment policy, or manner in which the portfolio is not in compliance.

(3) The quarterly report shall include a statement denoting the ability of the local agency to meet its pool's expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available.

(4) In the quarterly report, a subsidiary ledger of investments may be used in accordance with accepted accounting practices.

(c) Pursuant to subdivision (b), the treasurer or chief fiscal officer shall report whatever additional information or data may be required by the legislative body of the local agency.

(d) The legislative body of a local agency may elect to require the report specified in subdivision (b) to be made on a monthly basis instead of quarterly.

(e) For local agency investments that have been placed in the Local Agency Investment Fund, created by Section 16429.1, in National Credit Union Share Insurance Fund-insured accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, in a county investment pool, or any combination of these, the treasurer or chief fiscal officer may supply to the governing body, chief executive officer, and the auditor of the local agency the most recent statement or statements received by the local agency from these institutions in lieu of the information required by paragraph (1) of subdivision (b) regarding investments in these institutions.

(f) The treasurer or chief fiscal officer shall not be required to render a quarterly report, as required by subdivision (b), to a legislative body or any oversight committee of a school district or county office of education for securities, investments, or moneys held by the school district or county office of education in individual accounts that are less than twenty-five thousand dollars (\$25,000).

(g) In recognition of the state and local interests served by the actions made optional in subdivisions (a) and (b), the Legislature encourages the local agency officials to continue taking the actions formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

(Amended by Stats. 2009, Ch. 332, Sec. 68.5. (SB 113) Effective January 1, 2010.)

53647. (a) Interest on all money deposited belongs to, and shall be paid quarterly into the general fund of, the local agency represented by the officer making the deposit, unless otherwise directed by law.

(b) Notwithstanding the provisions of subdivision (a), and except as otherwise directed by law, if the governing body of the local agency represented by the officer making the deposit so directs, such interest shall be paid to the fund which contains the principal on which the interest accrued.

(Amended by Stats. 1978, Ch. 126.)

53647.5. Notwithstanding any other provision of law, interest earned on any bail money deposited by a court in a bank account pursuant to Section 1463.1 of the Penal Code and Section 53679 of this code shall be allocated for the support of that court.

(Amended by Stats. 2010, Ch. 212, Sec. 7. (AB 2767) Effective January 1, 2011.)

53648. Notwithstanding this article, the treasurer may deposit moneys in, and enter into contracts with, a state or national bank, savings association or federal association, federal or state credit union, or federally insured industrial loan company, pursuant to a federal law or a rule of a federal department or agency adopted pursuant to the law if the law or rule conflicts with this article in regulating the payment of interest on deposits of public moneys by any of the following:

(a) Banks which are Federal Reserve System members or whose deposits are insured by the Federal Deposit Insurance Corporation.

(b) Savings associations or federal associations which are federal home loan bank members or whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

(c) State or federal credit unions whose accounts are insured by the National Credit Union Share Insurance Fund or guaranteed by the California Credit Union Share Guaranty Corporation or insured or guaranteed pursuant to Section 14858 of the Financial Code, unless a member of the legislative body of a local agency, or any person with investment decisionmaking authority of the administrative office, 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.

(d) A federally insured industrial loan company.

(Amended by Stats. 1998, Ch. 81, Sec. 3. Effective January 1, 1999.)

53648.5. Upon the removal by federal law of the conflicting federal law or rule the agreement between the treasurer or other authorized official and a depository may be terminated by either party.

(Added by Stats. 1986, Ch. 1132, Sec. 11.)

53649. The treasurer is responsible for the safekeeping of money in his or her custody and shall enter into any contract with a depository relating to any deposit which in his or her judgment is to the public advantage. The depository, and the agent of depository to the extent the agent of depository has been notified of deposits and the amount thereof, are responsible for securing moneys deposited pursuant to such a contract in accordance with Section 53652. One copy of each contract shall be filed with the auditor, controller, secretary, or corresponding officer of the local agency. The contract shall:

(a) Fix the duration of deposits, if appropriate.

(b) Fix the interest rate, if any.

(c) Provide conditions for withdrawal and repayment.

(d) Provide for placement of pooled securities in a named agent of depository in accordance with Section 53656.

(e) Grant authority for agent of depository to place securities for safekeeping in accordance with Section 53659.

(f) Set forth in accordance with Section 53665 the conditions upon which the administrator shall order pooled securities converted into money for the benefit of the local agency, and the procedure therefor.

(g) Provide for compliance in all respects with the provisions of this article and other applicable provisions of law.

(h) Provide, upon notice to the treasurer from the administrator, that a treasurer may withdraw deposits in the event a depository fails to pay the assessments, fines, or penalties assessed by the administrator or may withdraw authorization for the placement of pooled securities in an agent of depository in the event that the agent of depository fails to pay the fines or penalties assessed by the administrator.

(Amended by Stats. 1987, Ch. 841, Sec. 1.)

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as the loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes or assessments to pay the principal and interest of the bonds upon all property within its boundaries subject to taxation or assessment by the local agency or district, and in addition, limited obligation bonds pursuant to Article 4 (commencing with Section 50665) of Chapter 3 of Division 1, senior obligation bonds pursuant to Article 5 (commencing with Section 53387) of Chapter 2.7, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between the public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in the contract pursuant to that subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on the obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the federal home loan banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under that act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of the department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided the obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, the Asian Development Bank, the International Finance Corporation, or the African Development Bank.

(k) Participation certificates of the Export-Import Bank of the United States.

(l) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(m) Promissory notes secured by first mortgages and first trust deeds which comply with Section 53651.2.

(n) Any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation issued to finance the construction of a school building or school buildings pursuant to a lease or agreement with a school district entered into in compliance with the provisions of Section 39315 or 81345 of the Education Code, and also any bonds, notes, warrants or other evidences of indebtedness issued to refinance those bonds, notes, warrants, or other evidences of indebtedness as specified in Section 39317 of the Education Code.

(o) Any municipal securities, as defined by Section 3(a)(29) of the Securities Exchange Act of June 6, 1934, (15 U.S.C. Sec. 78, as amended), which are issued by this state or any local agency thereof.

(p) With the consent of the treasurer, letters of credit issued by the Federal Home Loan Bank of San Francisco which comply with Section 53651.6.

(Amended by Stats. 1991, Ch. 1206, Sec. 7.)

53651.2. (a) To be an eligible security under subdivision (m) of Section 53651, a promissory note placed in a securities pool on or after January 1, 1987, shall comply with all of the following provisions:

(1) Each promissory note shall be secured by a first mortgage or first trust deed on improved 1 to 4 unit residential real property located in California, shall be fully amortized over the term of the note, and shall have a term of no more than 30 years. Any first mortgage or first trust deed which secures a promissory note providing for negative amortization shall be removed from the securities pool and replaced with an eligible security under subdivision (m) of Section 53651 if the loan to value ratio exceeds 85 percent of the original appraised value of the security property as a consequence of negative amortization.

(2) Each promissory note shall be eligible for sale to the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation; provided, however, that up to 25

percent of the total dollar amount of any promissory note securities pool established pursuant to Section 53658 may consist of promissory notes with loan amounts which exceed the maximum amounts eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, but which do not exceed: (i) five hundred thousand dollars (\$500,000) in the case of a single family dwelling; (ii) one million dollars (\$1,000,000) in the case of a 2, 3, or 4 unit dwelling.

(b) The following shall not constitute eligible securities under subdivision (m) of Section 53651:

(1) Any promissory note on which any payment is more than 60 days past due.

(2) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust. For the purposes of this paragraph, no lien specified in Section 766 of the Financial Code shall be considered a prior encumbrance unless any installment or payment thereunder (other than a rental or royalty under a lease) is due and delinquent.

(3) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(c) The depository may exercise, enforce, or waive any right granted to it by the promissory note, mortgage, or deed of trust.

(d) For purposes of this article, the market value of a promissory note which is an eligible security under subdivision (m) of Section 53651, shall be determined in accordance with the regulations adopted by the Treasurer under paragraph (2) of subdivision (m) of Section 53651, as the regulations and statute were in effect on December 31, 1986. However, if and when regulations on the subject are adopted by the administrator, the market value shall be determined in accordance with those regulations of the administrator.

(Amended by Stats. 1996, Ch. 1063, Sec. 81. Effective January 1, 1997.)

53651.4. (a) A depository that uses eligible securities of the class described in subdivision (m) of Section 53651 shall, within 90 days after the close of each calendar year or within a longer period as the administrator may specify, file with the administrator a report of an independent certified public accountant regarding compliance with this article and with regulations and orders issued by the administrator under this article with respect to eligible securities of that class. The report shall be based upon the audit, shall contain the information, and shall be in the form the administrator may prescribe. The depository shall provide a copy of the report to the treasurer on request.

(b) If a depository that is a state bank files with the administrator, not less than 90 days before the beginning of the calendar year, a notice that it elects to be examined by the administrator instead of filing a report of an independent certified public accountant under subdivision (a) for that calendar year, the depository shall be exempt from subdivision (a) for that calendar year and shall for that calendar year be subject to examination by the administrator regarding compliance with this article and with regulations and orders under this article with respect to eligible securities of the class described in subdivision (m) of Section 53651. The administrator shall provide a report to a treasurer with deposits in the examined state bank upon request of the treasurer.

(c) A national bank may apply to the administrator to be examined, and the administrator, in his or her discretion, may examine a national bank for the purposes of satisfying the requirements of subdivision (a). The administrator shall provide a report to a treasurer with deposits in the examined national bank upon request of the treasurer.

(d) Whenever the administrator examines a depository pursuant to subdivision (b) or (c), the depository shall pay, within 30 days after receipt of a statement from the administrator, a fee of seventy-five dollars (\$75) per hour for each examiner engaged in the examination.

(Amended by Stats. 1997, Ch. 375, Sec. 18. Effective January 1, 1998.)

53651.6. (a) To be an eligible security under subdivision (p) of Section 53651, a letter of credit shall be in such form and shall contain such provisions as the administrator may prescribe, and shall include all of the following terms:

(1) The administrator shall be the beneficiary of the letter of credit.

(2) The letter of credit shall be clean and irrevocable and shall provide that the administrator may draw upon it up to the total amount in the event of the failure of the depository savings association or federal association or if the depository savings association or federal association refuses to permit the withdrawal of funds by a treasurer.

(Added by Stats. 1986, Ch. 1132, Sec. 17.)

53652. To secure active or inactive deposits a depository shall at all times maintain with the agent of depository eligible securities in securities pools, pursuant to Sections 53656 and 53658, in the amounts specified in this

section. Uncollected funds shall be excluded from the amount deposited in the depository when determining the security requirements for the deposits.

(a) Eligible securities, except eligible securities of the classes described in subdivisions (m) and (p) of Section 53651, shall have a market value of at least 10 percent in excess of the total amount of all deposits of a depository secured by the eligible securities.

(b) Eligible securities of the class described in subdivision (m) of Section 53651 shall have a market value at least 50 percent in excess of the total amount of all deposits of a depository secured by those eligible securities.

(c) Eligible securities of the class described in subdivision (p) of Section 53651 shall have a market value of at least 5 percent in excess of the total amount of all deposits of a depository secured by those eligible securities. For purposes of this article, the market value of a letter of credit which is an eligible security under subdivision (p) of Section 53651 shall be the amount of credit stated in the letter of credit.

(Repealed and added by Stats. 1986, Ch. 1132, Sec. 19.)

53653. When in his or her discretion local conditions so warrant, the treasurer may waive security for the portion of any deposits as is insured pursuant to federal law, notwithstanding this article. For deposits equivalent to and not less than the maximum amount insured pursuant to federal law for which a treasurer has waived security under this section, a treasurer at his or her discretion may also waive security for the interest accrued on the deposits which, when added to the deposits, would cause the sum of the interest and deposits to exceed the maximum amount insured pursuant to federal law, provided that the interest is computed by the depository on the average daily balance of the deposits, paid monthly and computed on a 360-day basis.

(Amended by Stats. 1988, Ch. 156, Sec. 1.)

53654. (a) The depository may add securities to the pool or substitute securities of equal value for those in the pool at any time, but shall not interchange classes of security, as defined in Section 53632.5, without prior approval of the treasurer.

(b) Withdrawal of securities from the pool without replacement at equal value may be ordered only by two duly authorized officers or employees of the depository who satisfy the requirements as may be set by the administrator.

(c) The agent of depository is responsible for the safekeeping and disbursement of securities placed in its custody by a depository. It shall release securities only upon presentation by the depository of the most reasonably current statement of the total deposits subject to this article held by the depository, such statement to be verified and countersigned by two duly authorized officers, other than those who ordered the withdrawal of securities. A copy of this statement shall be forwarded to the administrator concurrently by the agent of depository.

(Amended by Stats. 1986, Ch. 1132, Sec. 22.)

53655. A placement of securities by a depository with an agent of depository pursuant to this article shall have the effect of perfecting a security interest in those securities in the local agencies having deposits in that depository notwithstanding provisions of the Uniform Commercial Code to the contrary and notwithstanding that the agent of depository may be the trust department of the depository.

(Repealed and added by Stats. 1969, Ch. 1483.)

53656. (a) At the time the treasurer enters into a contract with the depository pursuant to Section 53649, he or she shall authorize the agent of depository designated by the depository, but including the trust department of the depository only when acceptable to both the treasurer and the depository, to hold securities of the depository in accordance with this article to secure the deposit of the local agency.

(b) Only those trust companies and trust departments, or the Federal Home Loan Bank of San Francisco, which have been authorized by the administrator pursuant to Section 53657 shall be authorized by treasurers to act as agents of depository.

(c) The securities are subject to order of the depository in accordance with Section 53654 except when the provisions of subdivision (i) of Section 53661 and Section 53665 are in effect.

(d) An agent of depository shall not release any security held to secure a local agency deposit in a depository unless the administrator issues an order authorizing the release where either of the following occurs:

(1) A state or federal regulatory agency has taken possession of the depository.

(2) A conservator, receiver, or other legal custodian has been appointed for the depository.

(Amended by Stats. 1998, Ch. 1035, Sec. 10. Effective September 30, 1998.)

53657. (a) No person shall act as an agent of depository unless that person is a trust company located in this state, the trust department of a bank located in this state, or the Federal Home Loan Bank of San Francisco, and is authorized by the administrator to act as an agent of depository.

(b) (1) An application for authorization shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the administrator so requires) be verified in such manner, as the administrator may prescribe.

(2) The fee for filing an application for authorization with the administrator shall be five hundred dollars (\$500).

(3) If the administrator finds, with respect to an application for authorization, that the applicant is competent to act as an agent of depository and that it is reasonable to believe the applicant will comply with all applicable provisions of this article and of any regulation or order issued under this article, the administrator shall approve the application. If the administrator finds otherwise, the administrator shall deny the application.

(4) When an application for authorization has been approved, the applicant shall file with the administrator an agreement to comply with all applicable provisions of this article and of any regulation or order issued under this article. The agreement shall be in such form, shall contain such provisions, and shall be signed in such manner as the administrator may prescribe.

(5) When an application for authorization has been approved, the applicant has complied with paragraph (4), and all conditions precedent to authorizing the applicant to act as agent of depository have been fulfilled, the administrator shall authorize the applicant to act as agent of depository.

(Amended by Stats. 1996, Ch. 1063, Sec. 82. Effective January 1, 1997.)

53658. An agent of a depository may hold and pool securities to secure deposits for one or more depositories pursuant to Section 53656, but shall maintain a separate pool for each said depository. Each local agency shall have an undivided security interest in the pooled securities in the proportion that the amount of its deposits bears to the total amount of deposits secured by the pooled securities.

(Amended by Stats. 1970, Ch. 84.)

53659. Whenever an agent of depository accepts securities pursuant to Section 53656 it may, with the authorization of the depository, place such securities for safekeeping with a Federal Reserve Bank or branch thereof or with any bank located in a city designated as a reserve city by the Board of Governors of the Federal Reserve System or with the Federal Home Loan Bank of San Francisco or with a trust company located in this state. Authority for such placement together with the names of the banks or, including the Federal Home Loan Bank of San Francisco, trust companies to be so used, shall be contained in the contract between the treasurer and the depository required in Section 53649.

(Amended by Stats. 1976, Ch. 349.)

53660. When deposits of a local agency are secured by pooled securities pursuant to Section 53656, the agent of depository shall make available to the treasurer for review at a mutually agreed upon time and location all of the following information which may be in the form of a copy of the report required in subdivision (e) of Section 53661:

(a) A certification that there are securities in the pool in the amounts required by Section 53652 to secure deposits.

(b) A certified report of the individual securities then on deposit in the pool with the location and total market value thereof.

(c) The total amount of deposits then reported by the depository to be secured by the pool.

(Amended by Stats. 1986, Ch. 1132, Sec. 26.)

53661. (a) The Commissioner of Business Oversight shall act as Administrator of Local Agency Security and shall be responsible for the administration of Sections 53638, 53651, 53651.2, 53651.4, 53651.6, 53652, 53654, 53655, 53656, 53657, 53658, 53659, 53660, 53661, 53663, 53664, 53665, 53666, and 53667.

(b) The administrator shall have the powers necessary or convenient to administer and enforce the sections specified in subdivision (a).

(c) (1) The administrator shall issue regulations consistent with law as the administrator may deem necessary or advisable in executing the powers, duties, and responsibilities assigned by this article. The regulations may include regulations prescribing standards for the valuation, marketability, and liquidity of the eligible securities of the class described in subdivision (m) of Section 53651, regulations prescribing procedures and documentation for adding, withdrawing, substituting, and holding pooled securities, and regulations prescribing the form, content, and

execution of any application, report, or other document called for in any of the sections specified in subdivision (a) or in any regulation or order issued under any of those sections.

(2) The administrator, for good cause, may waive any provision of any regulation adopted pursuant to paragraph (1) or any order issued under this article, where the provision is not necessary in the public interest.

(d) The administrator may enter into any contracts or agreements as may be necessary, including joint underwriting agreements, to sell or liquidate eligible securities securing local agency deposits in the event of the failure of the depository or if the depository fails to pay all or part of the deposits of a local agency.

(e) The administrator shall require from every depository a report certified by the agent of depository listing all securities, and the market value thereof, which are securing local agency deposits together with the total deposits then secured by the pool, to determine whether there is compliance with Section 53652. These reports may be required whenever deemed necessary by the administrator, but shall be required at least four times each year at the times designated by the Comptroller of the Currency for reports from national banking associations. These reports shall be filed in the office of the administrator by the depository within 20 business days of the date the administrator calls for the report.

(f) The administrator may have access to reports of examination made by the Comptroller of the Currency insofar as the reports relate to national banking association trust department activities which are subject to this article.

(g) (1) The administrator shall require the immediate substitution of an eligible security, where the substitution is necessary for compliance with Section 53652, if (i) the administrator determines that a security listed in Section 53651 is not qualified to secure public deposits, or (ii) a treasurer, who has deposits secured by the securities pool, provides written notice to the administrator and the administrator confirms that a security in the pool is not qualified to secure public deposits.

(2) The failure of a depository to substitute securities, where the administrator has required the substitution, shall be reported by the administrator promptly to those treasurers having money on deposit in that depository and, in addition, shall be reported as follows:

(A) When that depository is a national bank, to the Comptroller of the Currency of the United States.

(B) When that depository is a state bank, to the Commissioner of Business Oversight.

(C) When that depository is a federal association, to the Office of the Comptroller of the Currency.

(D) When that depository is a savings association, to the Commissioner of Business Oversight.

(E) When that depository is a federal credit union, to the National Credit Union Administration.

(F) When that depository is a state credit union or a federally insured industrial loan company, to the Commissioner of Business Oversight.

(h) The administrator may require from each treasurer a registration report and at appropriate times a report stating the amount and location of each deposit together with other information deemed necessary by the administrator for effective operation of this article. The facts recited in any report from a treasurer to the administrator are conclusively presumed to be true for the single purpose of the administrator fulfilling responsibilities assigned to him or her by this article and for no other purpose.

(i) (1) If, after notice and opportunity for hearing, the administrator finds that any depository or agent of depository has violated or is violating, or that there is reasonable cause to believe that any depository or agent of depository is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued under any of those sections, the administrator may order the depository or agent of depository to cease and desist from the violation or may by order suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.

(2) (A) If the administrator makes any of the findings set forth in paragraph (1) with respect to any depository or agent of depository and, in addition, finds that the violation or the continuation of the violation is likely to seriously prejudice the interests of treasurers, the administrator may order the depository or agent of depository to cease and desist from the violation or may suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.

(B) Within five business days after an order is issued under subparagraph (A), the depository or agent of depository may file with the administrator an application for a hearing on the order. The administrator shall schedule a hearing at least 30 days, but not more than 40 days, after receipt of an application for a hearing or within a shorter or longer period of time agreed to by a depository or an agent of depository. If the administrator fails to schedule the hearing within the specified or agreed to time period, the order shall be deemed rescinded. Within 30 days after the

hearing, the administrator shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded. The right of a depository or agent of depository to which an order is issued under subparagraph (A) to petition for judicial review of the order shall not be affected by the failure of the depository or agent of depository to apply to the administrator for a hearing on the order pursuant to this subparagraph.

(3) Whenever the administrator issues a cease and desist order under paragraph (1) or (2), the administrator may in the order restrict the right of the depository to withdraw securities from a security pool; and, in that event, both the depository to which the order is directed and the agent of depository which holds the security pool shall comply with the restriction.

(4) In case the administrator issues an order under paragraph (1) or (2) suspending or revoking the authorization of an agent of depository, the administrator may order the agent of depository at its own expense to transfer all pooled securities held by it to such agent of depository as the administrator may designate in the order. The agent of depository designated in the order shall accept and hold the pooled securities in accordance with this article and regulations and orders issued under this article.

(j) In the discretion of the administrator, whenever it appears to the administrator that any person has violated or is violating, or that there is reasonable cause to believe that any person is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued thereunder, the administrator may bring an action in the name of the people of the State of California in the superior court to enjoin the violation or to enforce compliance with those sections or any regulation or order issued thereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and the court may not require the administrator to post a bond.

(k) In addition to other remedies, the administrator shall have the power and authority to impose the following sanctions for noncompliance with the sections specified in subdivision (a) after a hearing if requested by the party deemed in noncompliance. Any fine assessed pursuant to this subdivision shall be paid within 30 days after receipt of the assessment.

(1) Assess against and collect from a depository a fine not to exceed two hundred fifty dollars (\$250) for each day the depository fails to maintain with the agent of depository securities as required by Section 53652.

(2) Assess against and collect from a depository a fine not to exceed one hundred dollars (\$100) for each day beyond the time period specified in subdivision (b) of Section 53663 the depository negligently or willfully fails to file in the office of the administrator a written report required by that section.

(3) Assess against and collect from a depository a fine not to exceed one hundred dollars (\$100) for each day beyond the time period specified in subdivision (e) that a depository negligently or willfully fails to file in the office of the administrator a written report required by that subdivision.

(4) Assess and collect from an agent of depository a fine not to exceed one hundred dollars (\$100) for each day the agent of depository fails to comply with any of the applicable sections specified in subdivision (a) or any applicable regulation or order issued thereunder.

(l) (1) In the event that a depository or agent of depository fails to pay a fine assessed by the administrator pursuant to subdivision (k) within 30 days of receipt of the assessment, the administrator may assess and collect an additional penalty of 5 percent of the fine for each month or part thereof that the payment is delinquent.

(2) If a depository fails to pay the fines or penalties assessed by the administrator, the administrator may notify local agency treasurers with deposits in the depository.

(3) If an agent of depository fails to pay the fines or penalties assessed by the administrator, the administrator may notify local agency treasurers who have authorized the agent of depository as provided in Sections 53649 and 53656, and may by order revoke the authorization of the agent of depository as provided in subdivision (i).

(m) The amendments to this section enacted by the Legislature during the 1999–2000 Regular Session shall become operative on January 1, 2001.

(Amended by Stats. 2013, Ch. 353, Sec. 106. (SB 820) Effective September 26, 2013. Operative July 1, 2013, by Sec. 129 of Ch. 353.)

53663. (a) Each agent of depository shall report in writing to the administrator within two business days after any withdrawal, substitution, or addition of pooled securities and shall state the name and market value of the securities withdrawn, substituted, or added together with the total deposits then secured by the pool. This information shall be available from the administrator to the treasurer upon request.

(b) Each depository shall report in writing to the administrator weekly, giving the total amount of all deposits held by the depository pursuant to this article. The report shall be as of close of business on Wednesday of each week and shall be delivered to the office of the administrator, deposited in the United States mail, postage prepaid, or

delivered electronically via email, or other electronic means approved by the administrator, addressed to the office of the administrator, within five business days. Where there has occurred no change in the deposits required to be held by the depository pursuant to this article, the report required by this subdivision need only state that fact.

(Amended by Stats. 2014, Ch. 214, Sec. 1. (AB 2298) Effective January 1, 2015.)

53664. The individual reports specified in Sections 53654, 53660, 53661, and 53663 are not public documents and are not open to inspection by the public.

(Amended by Stats. 1987, Ch. 841, Sec. 5.)

53665. If a depository fails to pay all or part of the deposits of a local agency secured by pooled securities in accordance with the contract provided for in Section 53649, and on demand of its treasurer or other authorized official and the treasurer files a report with the administrator, or if the depository fails:

(a) In case the pooled securities consist of securities other than securities of the class described in subdivision (p) of Section 53651, the administrator shall order the agent of depository holding the pooled securities to convert into money that portion of the pooled securities necessary to produce an amount equal to the sum of (i) the deposits of the local agency, (ii) any accrued interest due on the deposits, and (iii) the reasonable expenses of the agent of depository in complying with the order of the administrator and to pay the sum of items (i) and (ii) to the treasurer in satisfaction of the deposits. The agent of depository shall be reimbursed out of the proceeds of the conversion for its reasonable expenses in complying with the order of the administrator, as approved by the administrator. Any excess moneys resulting from the conversion shall be retained by the agent of depository as part of the securities pool until the depository substitutes for the excess moneys securities having a market value sufficient to bring the total of pooled securities up to the amount required by Section 53652.

(b) In case the pooled securities consist of a security of the class described in subdivision (p) of Section 53651, the administrator shall draw on the letter of credit an amount equal to the sum of (i) the deposits of the local agency, (ii) any accrued interest on the deposits, and (iii) the reasonable expenses of the administrator in paying the deposits and pay the sum of items (i) and (ii) to the treasurer in satisfaction of the deposits.

(Amended by Stats. 1986, Ch. 1132, Sec. 30.)

53666. The only liability that shall attach to the administrator as the result of the operation of this article is that which would attach as a result of other laws of this state.

(Repealed and added by Stats. 1969, Ch. 1483.)

53667. (a) Expenses incurred by the administrator in carrying out the duties and responsibilities assigned to the administrator by the sections specified in subdivision (a) of Section 53661, shall be borne by the Local Agency Deposit Security Fund, which is hereby created and continuously appropriated to the administrator for the administration of the sections specified in subdivision (a) of Section 53661. This fund shall consist of fines levied pursuant to Section 53661, fees collected pursuant to the sections specified in subdivision (a) of Section 53661, and assessments levied pursuant to this section.

(b) Each fiscal year the administrator shall levy an assessment on a pro rata basis on those depositories which at any time during the preceding fiscal year held local agency deposits. The total assessment levied on all of those depositories shall be in an amount which, when added to the amount of fines and fees that the administrator estimates will be collected during the fiscal year when the assessment is levied, is sufficient in the judgment of the administrator to meet the expenses of the administrator in administering the sections specified in subdivision (a) of Section 53661 and to provide a reasonable reserve for contingencies. The basis of the apportionment of the assessment among the depositories assessed shall be the proportion that the average amount of local agency deposits held by each of those depositories bears to the average total amount of local agency deposits held by all of those depositories as shown by the reports of depositories to the administrator for the preceding fiscal year, as required in subdivision (e) of Section 53661; provided, however, that the amount of the assessment levied on each of those depositories shall be not less than twenty-five dollars (\$25).

(c) The administrator shall notify each depository by mail of the amount levied against it. The depository shall pay the amount levied within 20 days after such notice into the Local Agency Deposit Security Fund for the administration of the sections specified in subdivision (a) of Section 53661. If payment is not made to the administrator within such time, the administrator shall assess and collect, in addition to the annual assessment, a penalty of 5 percent of the assessment for each month or part thereof that the payment is delinquent. If a depository fails to pay the assessment or penalties assessed by the administrator, the administrator may notify local agency treasurers with deposits in the depository.

(Amended by Stats. 1987, Ch. 841, Sec. 6.)

53669. The treasurer or other authorized official is not responsible for money while it is deposited pursuant to this article.

(Amended by Stats. 1953, Ch. 670.)

53676. The treasurer is not responsible for securities delivered to and receipted for by any bank, savings and loan association, credit union, federally insured industrial loan company, or trust company.

(Amended by Stats. 1988, Ch. 1004, Sec. 6. Operative January 1, 1989, by Sec. 8 of Ch. 1004.)

53678. The charges for the handling and safekeeping of any such securities are not a charge against the treasurer but shall be paid by the depository owning the securities.

(Amended by Stats. 1976, Ch. 349.)

53679. So far as possible, all money belonging to a local agency under the control of any of its officers or employees other than the treasurer shall, and money deposited as bail coming into the possession of a judge or officer of a superior court may, be deposited as active deposits in the state or national bank, inactive deposits in the state or national bank or state or federal association, federal or state credit union, or federally insured industrial loan company in this state selected by the officer, employee, or judge of the court. For purposes of this section, an officer or employee of a local agency and a judge or officer of a superior court are prohibited from depositing local agency funds or money coming into their possession into a state or federal credit union if an officer or employee of the local agency, or a judge or officer of a superior court, 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 particular state or federal credit union. That money is subject to this article except:

(a) Deposits in an amount less than that insured pursuant to federal law are not subject to this article.

For deposits in excess of the amount insured under any federal law a contract in accordance with Section 53649 is required and the provisions of this article shall apply.

(b) Interest is not required on money deposited in an active deposit by a judge or officer of a superior court.

(c) Interest is not required on money deposited in an active deposit by an officer having control of a revolving fund created pursuant to Chapter 2 (commencing with Section 29300) of Division 3 of Title 3.

(d) Interest is not required on money deposited in an active deposit by an officer having control of a special fund established pursuant to Article 5 (commencing with Section 29400) or Article 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

(Amended by Stats. 2010, Ch. 212, Sec. 8. (AB 2767) Effective January 1, 2011.)

53679.1. Notwithstanding any other provision of law, the accounting practices of each county utilized prior to the effective date of this section relating to interest on trust funds shall be deemed appropriate and to have been made under the direction of the board of supervisors of that county. This section is declaratory of the law in existence prior to the enactment of this section.

(Added by Stats. 1992, Ch. 1032, Sec. 1. Effective January 1, 1993.)

53680. A tax collector of a local agency shall immediately deposit with the treasurer all money under his control, unless he deposits the money in a depository pursuant to this article under permission and instructions of the treasurer having authority to make such deposit.

(Added by Stats. 1949, Ch. 81.)

53681. An officer or employee of a local agency who deposits money belonging to, or in the custody of, the local agency in any other manner than that prescribed in this article is subject to forfeiture of his office or employment.

(Added by Stats. 1949, Ch. 81.)

53682. Notwithstanding any other provision in this article except Section 53652, the treasurer may deposit moneys in and enter into contracts with any depository, as defined in subdivision (c) of Section 53630, for services to be rendered by that depository that in the treasurer's judgment are to the public advantage. One copy of each contract entered into under this section shall be filed with the auditor or corresponding officer of the local agency. The contract shall:

- (a) Fix the duration of compensating deposits, if any.
- (b) Fix the interest rate of that compensating deposit, if any.
- (c) Specify the services to be rendered by the depository.
- (d) Indicate whether the depository shall bear the expenses of transportation of the money to and from the depository.
- (e) Fix the consideration payable by the agency for such services.
- (f) Specify who may deposit moneys into the treasurer's active account and how those persons are to make those deposits.

(Amended by Stats. 1994, Ch. 705, Sec. 11. Effective January 1, 1995.)

53683. Notwithstanding any other provision in this article, the consideration payable by the agency as specified in subdivision (e) of Section 53682 shall be paid by the treasurer by applying such consideration as costs applied on a pro rata basis against the interest earned by all the agencies for which the treasurer invests.

(Amended by Stats. 1976, Ch. 723.)

53684. (a) Unless otherwise provided by law, if the treasurer of any local agency, or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the treasurer or other official may, upon the adoption of a resolution by the legislative or governing body of the local agency authorizing the investment of funds pursuant to this section and with the consent of the county treasurer, deposit the excess funds in the county treasury for the purpose of investment by the county treasurer pursuant to Section 53601 or 53635, or Section 20822 of the Revenue and Taxation Code.

(b) The county treasurer shall, at least quarterly, apportion any interest or other increment derived from the investment of funds pursuant to this section in an amount proportionate to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool. In apportioning and distributing that interest or increment, the county treasurer may use the cash method, the accrual method, or any other method in accordance with generally accepted accounting principles.

Prior to distributing that interest or increment, the county treasurer may deduct the actual costs incurred by the county in administering this section in proportion to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool.

(c) The county treasurer shall disclose to each local agency that invests funds pursuant to this section the method of accounting used, whether cash, accrual, or other, and shall notify each local agency of any proposed changes in the accounting method at least 30 days prior to the date on which the proposed changes take effect.

(d) The treasurer or other official responsible for the funds of the local agency may withdraw the funds of the local agency pursuant to the procedure specified in Section 27136.

(e) Any moneys deposited in the county treasury for investment pursuant to this section are not subject to impoundment or seizure by any county official or agency while the funds are so deposited.

(f) This section is not operative in any county until the board of supervisors of the county, by majority vote, adopts a resolution making this section operative in the county.

(g) It is the intent of the Legislature in enacting this section to provide an alternative procedure to Section 51301 for local agencies to deposit money in the county treasury for investment purposes. Nothing in this section shall, therefore, be construed as a limitation on the authority of a county and a city to contract for the county treasurer to perform treasury functions for a city pursuant to Section 51301.

(Amended by Stats. 2011, Ch. 369, Sec. 2. (AB 1090) Effective January 1, 2012.)

53686. (a) Any audit conducted relating to the investment of local agency funds and other funds by the county treasurer in the county fund maintained pursuant to Section 53684 shall be rendered to the depository, the auditor, the controller, the secretary, or the corresponding officer of the local agency, the treasurer or other official responsible for the funds of any local agency that has funds on deposit in the county treasury, and the presiding judge of any superior court that has ordered, pursuant to Section 3412, Section 3413, or Section 3611 of the Probate Code, that assets of an estate be deposited with the county treasurer for deposit or investment.

(b) Any report rendered pursuant to Section 53646 shall be provided to the treasurer or other official responsible for the funds of any local agency that has funds on deposit in the county treasury.

(Added by Stats. 1996, Ch. 81, Sec. 2. Effective July 1, 1996.)