

40A:10-40.1; 18A:18B-4.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2018 **CHAPTER:** 40

NJSA: 40A:10-40.1; 18A:18B-4.1 (Allows certain joint insurance funds to make certain investments and to form certain investment programs; authorizes school districts and local units of government to deposit public funds into multiple federally-insured accounts)

BILL NO: A3122 (Substituted for S871)

SPONSOR(S) Burzichelli and others

DATE INTRODUCED: February 8, 2018

COMMITTEE: **ASSEMBLY:** Financial Institutions and Insurance

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 7, 2018

SENATE: June 7, 2018

DATE OF APPROVAL: June 14, 2018

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third Reprint enacted) Yes

A3122

SPONSOR'S STATEMENT: (Begins on page 12 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes 3-26-2018

LEGISLATIVE FISCAL ESTIMATE: No

S871

SPONSOR'S STATEMENT: (Begins on page 12 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

(continued)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH

§2 –
C.40A:10-40.1
§4 –
C.18A:18B-4.1
§7 - Note

P.L. 2018, CHAPTER 40, *approved June 14, 2018*
Assembly, No. 3122 (*Third Reprint*)

1 AN ACT concerning certain joint insurance funds and certain
2 deposits of public funds, amending P.L.1977, c.177 and N.J.S.
3 40A:5-14 and amending and supplementing P.L.1983, c.372 and
4 P.L. 1983, c.108.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 3 of P.L.1983, c.372 (C.40A:10-38) is amended to read
10 as follows:

11 3. a. The commissioners of a joint insurance fund shall have the
12 powers and authority granted to commissioners of individual local
13 insurance funds under the provisions of subsections a., b., c., and e. of
14 N.J.S.40A:10-10.

15 b. The commissioners may invest and reinvest the funds,
16 including workers' compensation funds, as authorized under the
17 provisions of subsection b. of N.J.S.40A:10-10. The commissioners
18 may, subject to the cash management plan of the joint insurance fund
19 adopted pursuant to N.J.S.40A:5-14, delegate any of the functions,
20 powers and duties relating to the investment and reinvestment of these
21 funds, including the purchase, sale or exchange of any investments,
22 securities or funds to an investment or asset manager. Any transfer of
23 investment power and duties made pursuant to this subsection shall be
24 detailed in a written contract for services between the joint insurance
25 fund and an investment or asset manager. The contract shall be filed
26 with the Commissioner of Banking and Insurance and the
27 Commissioner of Community Affairs. Compensation under such an
28 arrangement shall not be based upon commissions related to the
29 purchase, sale or exchange of any investments, securities or funds. In
30 addition to the types of securities in which the joint insurance fund
31 may invest pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1), a
32 joint insurance fund may invest moneys held in the fund in bonds,
33 notes, and other obligations issued by an agency or corporation of the
34 federal government or a governmental entity established under the
35 laws of this State, provided that the agency, corporation, or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AFI committee amendments adopted March 5, 2018.

²Assembly floor amendments adopted March 26, 2018.

³Assembly amendments adopted in accordance with Governor's recommendations June 4, 2018.

1 governmental entity responsible for the issuance of the bonds, notes, or
2 other obligations is not in default as to the payment of principal or
3 interest upon any of its outstanding obligations, and provided further
4 that the bonds, notes, or other obligations are purchased at fair market
5 value, guaranteed as to interest and principal, and have a credit rating
6 of A3 or higher by Moody's Investor Services, Inc., A- or higher by
7 Standard & Poor's Corporation, and A- or higher by Fitch Ratings,
8 except that two of the three ratings is sufficient and ³[one of the three
9 ratings is sufficient if only one rating is available] further provided
10 that the Commissioner of the Department of Community Affairs, in
11 consultation with the Commissioner of the Department of Banking and
12 Insurance, shall promulgate rules and regulations to limit the duration
13 of the long-term investments and to cap these investments at an
14 appropriate percentage of a joint insurance fund's overall investment
15 portfolio³. If a rating for the bonds, notes, or other obligations has not
16 been obtained from ³[one] two³ of the credit rating agencies, the
17 bonds, notes, or other obligations may be purchased if the agency,
18 corporation, or governmental entity responsible for the issuance meets
19 the minimum rating criteria specified by the previous sentence ³and if
20 the bond offering has the unconditional guarantee of the agency,
21 corporation, or governmental entity responsible for the issuance³.

22 c. The commissioners may transfer moneys held in the fund to the
23 Director of the Division of Investment in the Department of the
24 Treasury for investment on behalf of the fund, pursuant to the written
25 directions of the commissioners, signed by an authorized officer of the
26 joint insurance fund, or any investment or asset manager designated by
27 them. The commissioners shall provide a written notice to the director
28 detailing the extent of the authority delegated to the investment or
29 asset manager so designated to act on behalf of the joint insurance
30 fund. Moneys transferred to the director for investment shall be
31 invested subject to section 8 of P.L.1977, c.396 (C.40A:5-15.1), and in
32 accordance with the standards governing the investment of other funds
33 which are managed under the rules and regulations of the State
34 Investment Council. In addition to the types of securities in which the
35 joint insurance fund may invest pursuant to section 8 of P.L.1977,
36 c.396 (C.40A:5-15.1), a joint insurance fund may invest in debt
37 obligations of federal agencies or government corporations with
38 maturities not to exceed 10 years from the date of purchase, excluding
39 mortgage backed or derivative obligations, provided that the
40 investments are purchased through the Division of Investment and are
41 invested consistent with the rules and regulations of the State
42 Investment Council.

43 d. Moneys transferred to the director for investment may not
44 thereafter be withdrawn except: (1) pursuant to the written directions
45 of the commissioners signed by an authorized officer of the joint
46 insurance fund, or any investment or asset manager designated by
47 them; (2) upon withdrawal or expulsion of a member local unit from

1 the fund; (3) termination of the fund; or (4) in specific amounts in
2 payment of specific claims, administrative expenses or member
3 dividends upon affidavit of the director or other chief executive officer
4 of the joint insurance fund.

5 e. The commissioners or the executive board, as the case may be,
6 of any joint insurance fund established pursuant to the provisions of
7 this act shall be subject to and operate in compliance with the
8 provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et seq.),
9 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
10 seq.) and such other rules and regulations as govern the custody,
11 investment and expenditure of public funds by local units.
12 (cf: P.L.1995, c.374, s.1)

13
14 2. (New section) Notwithstanding the provisions of any other
15 law to the contrary, and in addition to the powers otherwise
16 conferred by law, the commissioners of a joint insurance fund
17 established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), and
18 the trustees of a joint insurance fund established pursuant to
19 P.L.1983, c.108 (C.18A:18B-1 et seq.) may amend the plan of risk
20 management of their respective funds to participate in a joint cash
21 management and investment program with other joint insurance
22 funds similarly established pursuant to P.L.1983, c.372 (C.40A:10-
23 36 et seq.), and P.L.1983, c.108 (C.18A:18B-1 et seq.). The joint
24 insurance funds participating in this program shall jointly file a cash
25 management plan for prior approval by the Commissioner of
26 Banking and Insurance and the Commissioner of Community
27 Affairs and shall comply with all provisions of P.L.1983, c.372
28 (C.40A:10-36 et seq.) and P.L.1983, c.108 (C.18A:18B-1 et seq.),
29 as appropriate.

30
31 3. Section 4 of P.L.1983, c.108 (C.18A:18B-4) is amended to
32 read as follows:

33 4. Bylaws of the group; trustees; powers.
34 a. The bylaws of any school board insurance group shall:
35 (1) Set forth a statement of purposes of the group;
36 (2) Set forth provisions for organization of the group, including
37 governance by a board of trustees;
38 (3) Provide for the delivery of a risk management program in
39 conjunction with any joint self-insurance fund or funds which the
40 board of trustees shall establish. The risk management program shall
41 include, but not be limited to:
42 (a) the perils of liabilities to be insured against;
43 (b) limits of coverage, whether self-insurance, direct insurance
44 purchased from a commercial carrier or reinsurance;
45 (c) the amount of risk to be retained by the fund;
46 (d) the amount of reserves to be established;
47 (e) the proposed method of assessing contributions to be paid by
48 each member of the fund;

- 1 (f) procedures governing loss adjustment and legal fees;
- 2 (g) coverage to be purchased from a commercial insurer, if any;
- 3 (h) reinsurance to be purchased, if any, and the amount of
- 4 premium therefor; and
- 5 (i) such other procedures and information as the commissioner
- 6 may require by rule or regulation;
- 7 (4) Set forth procedures to enforce the collection of any
- 8 contributions or payments in default;
- 9 (5) Set forth membership standards as required in section 3 of
- 10 P.L.1983, c.108 (C.18A:18B-3);
- 11 (6) Require that, for each joint self-insurance fund, a contract or
- 12 contracts of specific and aggregate excess insurance or reinsurance is
- 13 maintained;
- 14 (7) Set forth procedures for:
- 15 (a) Withdrawal from the group and a fund by a member;
- 16 (b) Termination of the group or fund and disposition of assets; and
- 17 (c) Determining the obligations, if any, of a member in the event
- 18 that the group is unable to pay indemnification obligations and
- 19 expenses payable from a fund administered by it;
- 20 (8) Require an annual certified audit to be prepared and filed with
- 21 the commissioner;
- 22 (9) Require that any joint self-insurance fund or funds be
- 23 developed and operated in accordance with accepted and sound
- 24 actuarial practices;
- 25 (10) Provide that any expenditure of moneys in a fund be in
- 26 furtherance of the purpose of the fund;
- 27 (11) Set forth other provisions as desired for operation and
- 28 governance of the group;
- 29 (12) Provide for expulsion of a member; and
- 30 (13) Comply with any requirement established by the
- 31 commissioner by rule or regulation.
- 32 b. The bylaws of a group shall provide for governance of the
- 33 group by a board of trustees selected in accordance with the provisions
- 34 of the bylaws. The bylaws shall provide for trustee powers and duties
- 35 and shall include, but not be limited to, the following powers of the
- 36 board of trustees:
- 37 (1) To determine and establish contributions and rates, loss
- 38 reserves, surplus, limits of coverage, limits of excess or reinsurance,
- 39 coverage documents, dividends and other financial and operating
- 40 policies of the group or fund;
- 41 (2) To invest moneys held in trust under any fund in investments
- 42 which are approved for investment by regulation of the State
- 43 Investment Council for surplus moneys of the State or, at the
- 44 discretion of the board, to transfer moneys held in trust under any fund
- 45 to the Director of the Division of Investment in the Department of the
- 46 Treasury for investment on behalf of the board in accordance with the
- 47 standards governing the investment of other funds which are managed
- 48 under the rules and regulations of the State Investment Council.

1 However, any moneys transferred to the director for investment may
2 not thereafter be withdrawn except upon withdrawal of a member from
3 the group or a fund or termination of the group or a fund or in specific
4 amounts in payment of specific claims, administrative expenses or
5 member dividends upon affidavit of the director or other chief
6 executive officer of the group. In addition to the types of securities in
7 which the joint insurance fund may otherwise invest, a joint insurance
8 fund may invest moneys held in trust under any fund in bonds, notes,
9 and other obligations issued by an agency or corporation of the federal
10 government or a governmental entity established under the laws of this
11 State, provided that the agency, corporation, or governmental entity
12 responsible for the issuance of the bonds, notes, or other obligations is
13 not in default as to the payment of principal or interest upon any of its
14 outstanding obligations, and provided further that the bonds, notes, or
15 other obligations are purchased at fair market value, guaranteed as to
16 interest and principal, and have a credit rating of A3 or higher by
17 Moody's Investor Services, Inc., A- or higher by Standard & Poor's
18 Corporation, and A- or higher by Fitch Ratings, except that two of the
19 three ratings is sufficient³ [and one of the three ratings is sufficient if
20 only one rating is available] and further provided that the
21 Commissioner of the Department of Community Affairs, in
22 consultation with the Commissioner of the Department of Banking and
23 Insurance, shall promulgate rules and regulations to limit the duration
24 of the long-term investments and to cap these investments at an
25 appropriate percentage of a joint insurance fund's overall investment
26 portfolio³. If a rating for the bonds, notes, or other obligations has not
27 been obtained from³ [one] two³ of the credit rating agencies, the
28 bonds, notes, or other obligations may be purchased if the agency,
29 corporation, or governmental entity responsible for the issuance meets
30 the minimum rating criteria specified by the previous sentence³ and if
31 the bond offering has the unconditional guarantee of the agency,
32 corporation, or governmental entity responsible for the issuance³;

33 (3) To purchase, acquire, hold, lease, sell and convey real and
34 personal property, all of which property shall be exempt from taxation
35 under chapter 4 of Title 54, Taxation, of the Revised Statutes;

36 (4) To collect and disburse all money due to or payable by the
37 group, or authorize such collection and disbursement;

38 (5) To enter into contracts with other persons or with public bodies
39 of this State for any professional, administrative or other services as
40 may be necessary to carry out the purposes of the group or any fund;

41 (6) To purchase and serve as the master policyholders if desired,
42 for any insurance, including excess or reinsurance;

43 (7) To prepare, or cause to be prepared, a risk management
44 program for the joint insurance group;

45 (8) As the need arises, from time to time, to amend the bylaws or
46 risk management program of the fund; except that no such amendment
47 shall take effect until approved in the following manner:

1 (a) The trustees shall file with the commissioner, for his approval:
2 a copy of any amendment to the bylaws of the fund, upon approval by
3 resolution of three-fourths of the member school boards or in such
4 other manner as established by the fund and approved by the
5 commissioner; or any amendment to the risk management program,
6 upon adoption by the trustees.

7 (b) Within 60 days of receipt, the commissioner shall either
8 approve or disapprove any amendment to the bylaws or risk
9 management program. If the commissioner fails to either approve or
10 disapprove the amendment within that 60 day period, the amendment
11 shall be deemed approved;

12 (c) If any amendment is disapproved, the commissioner shall set
13 forth, in writing, the reasons for disapproval. Upon the receipt of the
14 notice of disapproval, the trustee of the affected joint insurance fund
15 may request a public hearing. The public hearing shall be convened
16 by the commissioner in a timely manner;

17 (d) Within 90 days after the effective date of any amendment to
18 the bylaws, a member school board which did not approve the
19 amendment may withdraw from the fund, except that it shall remain
20 liable for its share of any claim or expense incurred by the fund during
21 its period of membership;

22 (9) To do all other things necessary and proper to carry out the
23 purposes for which the group is established.

24 (cf: P.L.1995, c.74, s.2)

25

26 4. (New section) Notwithstanding the provisions of any other
27 law to the contrary, and in addition to the powers otherwise
28 conferred by law, the trustees of a joint insurance fund established
29 pursuant to P.L.1983, c.108 (C.18A:18B-1 et seq.) and the
30 commissioners of a joint insurance fund established pursuant to
31 P.L.1983, c.372 (C.40A:10-36 et seq.), may amend the plan of risk
32 management of their respective funds to participate in a joint cash
33 management and investment program with other joint insurance
34 funds similarly established pursuant to P.L.1983, c.108
35 (C.18A:18B-1 et seq.) and P.L.1983, c.372 (C.40A:10-36 et seq.).
36 The joint insurance funds participating in this program shall jointly
37 file a cash management plan for prior approval by the
38 Commissioner of Banking and Insurance and the Commissioner of
39 Community Affairs and shall comply with all provisions of
40 P.L.1983, c.108 (C.18A:18B-1 et seq.) and P.L.1983, c.372
41 (C.40A:10-36 et seq.), as appropriate.

42

43 5. Section 1 of P.L.1977, c.177 (C.18A:20-37) is amended to read
44 as follows:

45 1. a. When authorized by resolution adopted by a majority vote
46 of all its members the board of education of any school district may
47 use moneys, which may be in hand, for the purchase of the following

1 types of securities which, if suitable for registry, may be registered in
2 the name of the school district:

3 (1) Bonds or other obligations of the United States of America or
4 obligations guaranteed by the United States of America;

5 (2) Government money market mutual funds;

6 (3) Any obligation that a federal agency or a federal
7 instrumentality has issued in accordance with an act of Congress,
8 which security has a maturity date not greater than 397 days from the
9 date of purchase, provided that such obligations bear a fixed rate of
10 interest not dependent on any index or other external factor;

11 (4) Bonds or other obligations of the school district or bonds or
12 other obligations of the local unit or units within which the school
13 district is located;

14 (5) Bonds or other obligations, having a maturity date of not more
15 than 397 days from the date of purchase, ¹issued by New Jersey school
16 districts, municipalities, counties, and entities subject to the "Local
17 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
18 seq.). Other bonds or obligations having a maturity date not more than
19 397 days from the date of purchase may be¹approved by the Division
20 of Investment in the Department of the Treasury for investment by
21 school districts;

22 (6) Local government investment pools;

23 (7) Deposits with the State of New Jersey Cash Management Fund
24 established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4);

25 **[or]**

26 (8) Agreements for the repurchase of fully collateralized securities,
27 if:

28 (a) the underlying securities are permitted investments pursuant to
29 paragraphs (1) and (3) of this subsection a. ¹or are bonds or other
30 obligations, having a maturity date of not more than 397 days from the
31 date of purchase, issued by New Jersey school districts, municipalities,
32 counties, and entities subject to the requirements of the "Local
33 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
34 seq.)¹;

35 (b) the custody of collateral is transferred to a third party;

36 (c) the maturity of the agreement is not more than 30 days;

37 (d) the underlying securities are purchased through a public
38 depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41) and
39 for which a master repurchase agreement providing for the custody
40 and security of collateral is executed ; or

41 (9) Deposit of funds in accordance with the following conditions:

42 (a) the funds are initially invested through a public depository as
43 defined in section 1 of P.L.1970, c.236 (C.17:9-41) designated by the
44 school district;

45 (b) the designated public depository arranges for the deposit of the
46 funds in deposit accounts in one or more federally insured banks ³,

1 savings banks³ ²[or],² savings and loan associations, ²or credit
2 unions² for the account of the school district;

3 (c) 100 percent of the principal and accrued interest of each
4 deposit is insured by the Federal Deposit Insurance Corporation or the
5 National Credit Union Share Insurance Fund;

6 (d) the designated public depository acts as custodian for the
7 school district with respect to those deposits; and

8 (e) on the same date that the school district's funds are deposited
9 pursuant to subparagraph (b) of this paragraph, the designated public
10 depository receives an amount of deposits from customers of other
11 financial institutions, wherever located, equal to the amount of funds
12 initially invested by the school district through the designated public
13 depository.

14 b. Any investment instruments in which the security is not
15 physically held by the school district shall be covered by a third party
16 custodial agreement which shall provide for the designation of such
17 investments in the name of the school board and prevent unauthorized
18 use of such investments.

19 c. Purchase of investment securities shall be executed by the
20 "delivery versus payment" method to ensure that securities are either
21 received by the school district or a third party custodian prior to or
22 upon the release of the school district's funds.

23 d. Any investments not purchased and redeemed directly from the
24 issuer, government money market mutual fund, local government
25 investment pool, or the State of New Jersey Cash Management Fund,
26 shall be purchased and redeemed through the use of a national or State
27 bank located within this State or through a broker-dealer which, at the
28 time of purchase or redemption, has been registered continuously for a
29 period of at least two years pursuant to section 9 of P.L.1967, c.93
30 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent
31 capitalization if not a corporation), surplus reserves for contingencies
32 and undivided profits, or through a securities dealer who makes
33 primary markets in U.S. Government securities and reports daily to the
34 Federal Reserve Bank of New York its position in and borrowing on
35 such U.S. Government securities.

36 e. For the purposes of this section:

37 (1) a "government money market mutual fund" means an
38 investment company or investment trust:

39 (a) which is registered with the Securities and Exchange
40 Commission under the "Investment Company Act of 1940," 15 U.S.C.
41 s.80a-1 et seq., and operated in accordance with 17 C.F.R. s.270.2a-7¹,
42 except that a government money market mutual fund may not impose
43 liquidity fees or redemption gates regardless of whether permitted to
44 do so under 17 C.F.R. s.270.2a-7¹;

45 (b) the portfolio of which is limited to U.S. Government securities
46 ¹that meet the definition of an eligible security pursuant to 17 C.F.R.
47 s.270.2a-7, securities that have been issued by New Jersey school

1 districts, municipalities, counties, and entities subject to the
2 requirements of the "Local Authorities Fiscal Control Law," P.L.1983,
3 c.313 (C.40A:5A-1 et seq.)¹ that meet the definition of an eligible
4 security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements
5 that are collateralized by such ¹**["U.S. Government"]**¹ securities in which
6 direct investment may be made pursuant to paragraphs (1)¹**["and"]** ,¹
7 (3)¹, and (5)¹ of subsection a. of this section ; and

8 (c) which is rated by a nationally recognized statistical rating
9 organization.

10 (2) a "local government investment pool" means an investment
11 pool:

12 (a) which is managed in accordance with ¹**["17 C. F.R. s.270.2a-7"]**
13 generally accepted accounting and financial reporting principles for
14 local government investment pools established by the Governmental
15 Accounting Standards Board¹;

16 (b) which is rated in the highest category by a nationally
17 recognized statistical rating organization;

18 (c) the portfolio of which is limited to U.S. Government securities
19 ¹that meet the definition of an eligible security pursuant to 17 C.F.R.
20 s.270.2a-7, securities that have been issued by New Jersey school
21 districts, municipalities, counties, and entities subject to the
22 requirements of the "Local Authorities Fiscal Control Law," P.L.1983,
23 c.313 (C.40A:5A-1 et seq.)¹ that meet the definition of an eligible
24 security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements
25 that are collateralized by such ¹**["U.S. Government"]**¹ securities in which
26 direct investment may be made pursuant to paragraphs (1)¹**["and"]**,¹
27 (3)¹, and (5)¹ of subsection a. of this section;

28 (d) which is in compliance with ¹such¹ rules ¹as may be¹ adopted
29 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.) by the Local Finance Board of the Division of
31 Local Government Services in the Department of Community Affairs,
32 which ¹may promulgate¹ rules ¹**["shall provide"]** providing¹ for
33 disclosure and reporting requirements, and other provisions deemed
34 necessary by the board to provide for the safety, liquidity and yield of
35 the investments;

36 (e) which does not permit investments in instruments that: are
37 subject to high price volatility with changing market conditions;
38 cannot reasonably be expected, at the time of interest rate adjustment,
39 to have a market value that approximates their par value; or utilize an
40 index that does not support a stable net asset value ;¹**["and"]**¹

41 (f) which purchases and redeems investments directly from the
42 issuer, a government money market mutual fund, or the State of New
43 Jersey Cash Management Fund, or through the use of a national or
44 State bank located within this State, or through a broker-dealer which,
45 at the time of purchase or redemption, has been registered
46 continuously for a period of at least two years pursuant to section 9 of
47 P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock

1 (or equivalent capitalization if not a corporation), surplus reserves for
2 contingencies and undivided profits, or through a securities dealer who
3 makes primary markets in U.S. Government securities and reports
4 daily to the Federal Reserve Bank of New York its position in and
5 borrowing on such U.S. Government securities;¹and

6 (g) which does not impose liquidity fees or redemption gates¹.

7 f. Investments in, or deposits or purchases of financial
8 instruments made pursuant to this section shall not be subject to the
9 requirements of the "Public School Contracts Law," N.J.S.18A:18A-1
10 et seq.

11 (cf: P.L.2017, c.310, s.1)

12
13 6. N.J.S.40A:5-14 is amended to read as follows:

14 40A:5-14. a. Each local unit shall adopt a cash management plan
15 and shall deposit, or invest, or both deposit and invest, its funds
16 pursuant to that plan. The cash management plan shall include:

17 (1) the designation of a public depository or depositories as
18 defined in section 1 of P.L.1970, c.236 (C.17:9-41) and may permit
19 deposits in such public depository or depositories as permitted in
20 section 4 of P.L.1970, c.236 (C.17:9-44) or in subsection i. of this
21 section;

22 (2) the designation of any fund that meets the requirements
23 established pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1);

24 (3) the authorization for investments as permitted pursuant to
25 section 8 of P.L.1977, c.396 (C.40A:5-15.1); or

26 (4) any combination of the designations or authorizations
27 permitted pursuant to this subsection a.

28 b. The cash management plan shall be approved annually by
29 majority vote of the governing body of the local unit and may be
30 modified from time to time in order to reflect changes in federal or
31 State law or regulations, or in the designations of depositories, funds
32 or investment instruments or the authorization for investments. The
33 chief financial officer of the local unit shall be charged with
34 administering the plan.

35 c. The cash management plan shall be designed to assure to the
36 extent practicable the investment of local funds in interest bearing
37 accounts and other permitted investments. The cash management plan
38 shall be subject to the annual audit conducted pursuant to N.J.S.40A:5-
39 4. When an investment in bonds maturing in more than one year is
40 authorized, the maturity of those bonds shall approximate the
41 prospective use of the funds invested.

42 d. The cash management plan may include authorization to invest
43 in any of the investments authorized pursuant to section 8 of P.L.1977,
44 c.396 (C.40A:5-15.1) and shall set policies for selecting and evaluating
45 investment instruments accordingly. Such policies shall consider
46 preservation of capital, liquidity, current and historical investment
47 returns, diversification, maturity requirements, costs and fees, and
48 when appropriate, policies of investment instrument administrators.

1 Policies shall be based on a cash flow analysis prepared by the chief
2 financial officer and be commensurate with the nature and size of the
3 funds held by the local unit. All investments shall be made on a
4 competitive basis insofar as practicable.

5 e. The cash management plan shall require a monthly report to
6 the governing body summarizing all investments made or redeemed
7 since the last meeting. The report shall set forth each organization
8 holding local unit funds, the amount of securities purchased or sold,
9 class or type of securities purchased, book value, earned income, fees
10 incurred, and market value of all investments as of the report date and
11 other information that may be required by the governing body.

12 f. The official charged with the custody of moneys of a local unit
13 shall deposit or invest them as designated or authorized by the cash
14 management plan pursuant to subsection a. of this section and shall
15 thereafter be relieved of any liability for loss of such moneys due to
16 the insolvency or closing of any depository designated by, or the
17 decrease in value of any investment authorized by, the cash
18 management plan pursuant to subsection a. of this section.

19 g. Any official involved in the designation of depositories or in
20 the authorization for investments as permitted pursuant to section 8 of
21 P.L.1977, c.396 (C.40A:5-15.1), or any combination of the preceding,
22 or the selection of an entity seeking to sell an investment to the local
23 unit who has a material business or personal relationship with that
24 organization shall disclose that relationship to the governing body of
25 the local unit and to the Local Finance Board or a county or municipal
26 ethics board, as appropriate.

27 h. The registered principal of any security brokerage firm selling
28 securities to the local unit shall be provided with, and sign an
29 acknowledgment that the principal has seen and reviewed the local
30 unit's cash management plan, except that with respect to the sale of a
31 government money market mutual fund, the registered principal need
32 only be provided with and sign an acknowledgment that the
33 government money market mutual fund whose securities are being
34 sold to the local unit meets the criteria of a government money market
35 mutual fund as set forth in paragraph (1) of subsection e. of section 8
36 of P.L.1977, c.396 (C.40A:5-15.1).

37 i. The cash management plan may provide for the **【**purchase of
38 certificates of**】** deposit of funds in deposit accounts in accordance with
39 the following conditions:

40 (1) the funds are initially invested through a public depository as
41 defined in section 1 of P.L.1970, c.236 (C.17:9-41) designated by the
42 local unit;

43 (2) the designated public depository arranges for the deposit of the
44 funds in **【**certificates of**】** deposit accounts in one or more federally
45 insured ²**【**banks or savings and loans associations**】** financial
46 institutions², for the account of the local unit;

1 (3) 100 percent of the principal and accrued interest of each
2 **【certificate of】** deposit is insured by the Federal Deposit Insurance
3 Corporation ³or the National Credit Union Share Insurance Fund³;

4 (4) the designated public depository acts as custodian for the local
5 unit with respect to **【the certificates of deposit issued for the local**
6 **unit's account】** those deposits; and

7 (5) **【at】** on the same 【time】 date that the local unit's funds are
8 deposited **【and the certificates of deposit are issued】** pursuant to
9 paragraph (2) of this subsection, the designated public depository
10 receives an amount of deposits from customers of other **【banks and**
11 **savings and loan associations】** financial institutions, wherever located,
12 equal to the amount of funds initially invested by the local unit through
13 the designated public depository.

14 (cf: P.L.2007, c.241, s.1.)

15
16 7. This act shall take effect ³**【immediately】** six months following
17 enactment. Notwithstanding the provisions of the “Administrative
18 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary,
19 the Commissioner of the Department of Community Affairs, in
20 consultation with the Commissioner of the Department of Banking and
21 Insurance, shall promulgate rules and regulations to limit the duration
22 of the long-term investments and to cap these investments at an
23 appropriate percentage of a joint insurance fund’s overall investment
24 portfolio; such rules and regulations shall be effective immediately
25 upon filing with the Office of Administrative Law, which rules and
26 regulations shall be effective for a period not to exceed 360 days
27 following the effective date of this act and may thereafter be amended,
28 adopted, or readopted by the Commissioner of the Department of
29 Community Affairs, in consultation with the Commissioner of the
30 Department of Banking and Insurance, in accordance with the
31 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The
32 Commissioner of the Department of Community Affairs, in
33 consultation with the Commissioner of the Department of Banking and
34 Insurance, may promulgate such other rules and regulations as are
35 necessary to effectuate the purposes of this act³.

36
37
38
39
40 Allows certain joint insurance funds to make certain investments
41 and to form certain investment programs; authorizes school districts
42 and local units of government to deposit public funds into multiple
43 federally-insured accounts.

ASSEMBLY, No. 3122

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Allows certain joint insurance funds to make certain investments and to form certain investment programs; authorizes school districts and local units of government to deposit public funds into multiple FDIC-insured accounts.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning certain joint insurance funds and certain
2 deposits of public funds, amending P.L.1977, c.177 and N.J.S.
3 40A:5-14 and amending and supplementing P.L.1983, c.372 and
4 P.L. 1983, c.108.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 3 of P.L.1983, c.372 (C.40A:10-38) is amended to
10 read as follows:

11 3. a. The commissioners of a joint insurance fund shall have
12 the powers and authority granted to commissioners of individual
13 local insurance funds under the provisions of subsections a., b., c.,
14 and e. of N.J.S.40A:10-10.

15 b. The commissioners may invest and reinvest the funds,
16 including workers' compensation funds, as authorized under the
17 provisions of subsection b. of N.J.S.40A:10-10. The commissioners
18 may, subject to the cash management plan of the joint insurance
19 fund adopted pursuant to N.J.S.40A:5-14, delegate any of the
20 functions, powers and duties relating to the investment and
21 reinvestment of these funds, including the purchase, sale or
22 exchange of any investments, securities or funds to an investment or
23 asset manager. Any transfer of investment power and duties made
24 pursuant to this subsection shall be detailed in a written contract for
25 services between the joint insurance fund and an investment or asset
26 manager. The contract shall be filed with the Commissioner of
27 Banking and Insurance and the Commissioner of Community
28 Affairs. Compensation under such an arrangement shall not be
29 based upon commissions related to the purchase, sale or exchange
30 of any investments, securities or funds. In addition to the types of
31 securities in which the joint insurance fund may invest pursuant to
32 section 8 of P.L.1977, c.396 (C.40A:5-15.1), a joint insurance fund
33 may invest moneys held in the fund in bonds, notes, and other
34 obligations issued by an agency or corporation of the federal
35 government or a governmental entity established under the laws of
36 this State, provided that the agency, corporation, or governmental
37 entity responsible for the issuance of the bonds, notes, or other
38 obligations is not in default as to the payment of principal or
39 interest upon any of its outstanding obligations, and provided
40 further that the bonds, notes, or other obligations are purchased at
41 fair market value, guaranteed as to interest and principal, and have a
42 credit rating of A3 or higher by Moody's Investor Services, Inc., A-
43 or higher by Standard & Poor's Corporation, and A- or higher by
44 Fitch Ratings, except that two of the three ratings is sufficient and
45 one of the three ratings is sufficient if only one rating is available.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 If a rating for the bonds, notes, or other obligations has not been
2 obtained from one of the credit rating agencies, the bonds, notes, or
3 other obligations may be purchased if the agency, corporation, or
4 governmental entity responsible for the issuance meets the
5 minimum rating criteria specified by the previous sentence.

6 c. The commissioners may transfer moneys held in the fund to
7 the Director of the Division of Investment in the Department of the
8 Treasury for investment on behalf of the fund, pursuant to the
9 written directions of the commissioners, signed by an authorized
10 officer of the joint insurance fund, or any investment or asset
11 manager designated by them. The commissioners shall provide a
12 written notice to the director detailing the extent of the authority
13 delegated to the investment or asset manager so designated to act on
14 behalf of the joint insurance fund. Moneys transferred to the
15 director for investment shall be invested subject to section 8 of
16 P.L.1977, c.396 (C.40A:5-15.1), and in accordance with the
17 standards governing the investment of other funds which are
18 managed under the rules and regulations of the State Investment
19 Council. In addition to the types of securities in which the joint
20 insurance fund may invest pursuant to section 8 of P.L.1977, c.396
21 (C.40A:5-15.1), a joint insurance fund may invest in debt
22 obligations of federal agencies or government corporations with
23 maturities not to exceed 10 years from the date of purchase,
24 excluding mortgage backed or derivative obligations, provided that
25 the investments are purchased through the Division of Investment
26 and are invested consistent with the rules and regulations of the
27 State Investment Council.

28 d. Moneys transferred to the director for investment may not
29 thereafter be withdrawn except: (1) pursuant to the written
30 directions of the commissioners signed by an authorized officer of
31 the joint insurance fund, or any investment or asset manager
32 designated by them; (2) upon withdrawal or expulsion of a member
33 local unit from the fund; (3) termination of the fund; or (4) in
34 specific amounts in payment of specific claims, administrative
35 expenses or member dividends upon affidavit of the director or
36 other chief executive officer of the joint insurance fund.

37 e. The commissioners or the executive board, as the case may
38 be, of any joint insurance fund established pursuant to the
39 provisions of this act shall be subject to and operate in compliance
40 with the provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-
41 1 et seq.), the "Local Public Contracts Law," P.L.1971, c.198
42 (C.40A:11-1 et seq.) and such other rules and regulations as govern
43 the custody, investment and expenditure of public funds by local
44 units.

45 (cf: P.L.1995, c.374, s.1)

46

47 2. (New section) Notwithstanding the provisions of any other
48 law to the contrary, and in addition to the powers otherwise

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1 conferred by law, the commissioners of a joint insurance fund
2 established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), and
3 the trustees of a joint insurance fund established pursuant to
4 P.L.1983, c.108 (C.18A:18B-1 et seq.) may amend the plan of risk
5 management of their respective funds to participate in a joint cash
6 management and investment program with other joint insurance
7 funds similarly established pursuant to P.L.1983, c.372 (C.40A:10-
8 36 et seq.), and P.L.1983, c.108 (C.18A:18B-1 et seq.). The joint
9 insurance funds participating in this program shall jointly file a cash
10 management plan for prior approval by the Commissioner of
11 Banking and Insurance and the Commissioner of Community
12 Affairs and shall comply with all provisions of P.L.1983, c.372
13 (C.40A:10-36 et seq.) and P.L.1983, c.108 (C.18A:18B-1 et seq.),
14 as appropriate.

15

16 3. Section 4 of P.L.1983, c.108 (C.18A:18B-4) is amended to
17 read as follows:

18 4. Bylaws of the group; trustees; powers.

19 a. The bylaws of any school board insurance group shall:

20 (1) Set forth a statement of purposes of the group;

21 (2) Set forth provisions for organization of the group, including
22 governance by a board of trustees;

23 (3) Provide for the delivery of a risk management program in
24 conjunction with any joint self-insurance fund or funds which the
25 board of trustees shall establish. The risk management program
26 shall include, but not be limited to:

27 (a) the perils of liabilities to be insured against;

28 (b) limits of coverage, whether self-insurance, direct insurance
29 purchased from a commercial carrier or reinsurance;

30 (c) the amount of risk to be retained by the fund;

31 (d) the amount of reserves to be established;

32 (e) the proposed method of assessing contributions to be paid by
33 each member of the fund;

34 (f) procedures governing loss adjustment and legal fees;

35 (g) coverage to be purchased from a commercial insurer, if any;

36 (h) reinsurance to be purchased, if any, and the amount of
37 premium therefor; and

38 (i) such other procedures and information as the commissioner
39 may require by rule or regulation;

40 (4) Set forth procedures to enforce the collection of any
41 contributions or payments in default;

42 (5) Set forth membership standards as required in section 3 of
43 P.L.1983, c.108 (C.18A:18B-3);

44 (6) Require that, for each joint self-insurance fund, a contract or
45 contracts of specific and aggregate excess insurance or reinsurance
46 is maintained;

47 (7) Set forth procedures for:

48 (a) Withdrawal from the group and a fund by a member;

1 (b) Termination of the group or fund and disposition of assets;
2 and

3 (c) Determining the obligations, if any, of a member in the
4 event that the group is unable to pay indemnification obligations
5 and expenses payable from a fund administered by it;

6 (8) Require an annual certified audit to be prepared and filed
7 with the commissioner;

8 (9) Require that any joint self-insurance fund or funds be
9 developed and operated in accordance with accepted and sound
10 actuarial practices;

11 (10) Provide that any expenditure of moneys in a fund be in
12 furtherance of the purpose of the fund;

13 (11) Set forth other provisions as desired for operation and
14 governance of the group;

15 (12) Provide for expulsion of a member; and

16 (13) Comply with any requirement established by the
17 commissioner by rule or regulation.

18 b. The bylaws of a group shall provide for governance of the
19 group by a board of trustees selected in accordance with the
20 provisions of the bylaws. The bylaws shall provide for trustee
21 powers and duties and shall include, but not be limited to, the
22 following powers of the board of trustees:

23 (1) To determine and establish contributions and rates, loss
24 reserves, surplus, limits of coverage, limits of excess or reinsurance,
25 coverage documents, dividends and other financial and operating
26 policies of the group or fund;

27 (2) To invest moneys held in trust under any fund in investments
28 which are approved for investment by regulation of the State
29 Investment Council for surplus moneys of the State or, at the
30 discretion of the board, to transfer moneys held in trust under any
31 fund to the Director of the Division of Investment in the
32 Department of the Treasury for investment on behalf of the board in
33 accordance with the standards governing the investment of other
34 funds which are managed under the rules and regulations of the
35 State Investment Council. However, any moneys transferred to the
36 director for investment may not thereafter be withdrawn except
37 upon withdrawal of a member from the group or a fund or
38 termination of the group or a fund or in specific amounts in
39 payment of specific claims, administrative expenses or member
40 dividends upon affidavit of the director or other chief executive
41 officer of the group. In addition to the types of securities in which
42 the joint insurance fund may otherwise invest, a joint insurance
43 fund may invest moneys held in trust under any fund in bonds,
44 notes, and other obligations issued by an agency or corporation of
45 the federal government or a governmental entity established under
46 the laws of this State, provided that the agency, corporation, or
47 governmental entity responsible for the issuance of the bonds,
48 notes, or other obligations is not in default as to the payment of

1 principal or interest upon any of its outstanding obligations, and
2 provided further that the bonds, notes, or other obligations are
3 purchased at fair market value, guaranteed as to interest and
4 principal, and have a credit rating of A3 or higher by Moody's
5 Investor Services, Inc., A- or higher by Standard & Poor's
6 Corporation, and A- or higher by Fitch Ratings, except that two of
7 the three ratings is sufficient and one of the three ratings is
8 sufficient if only one rating is available. If a rating for the bonds,
9 notes, or other obligations has not been obtained from one of the
10 credit rating agencies, the bonds, notes, or other obligations may be
11 purchased if the agency, corporation, or governmental entity
12 responsible for the issuance meets the minimum rating criteria
13 specified by the previous sentence;

14 (3) To purchase, acquire, hold, lease, sell and convey real and
15 personal property, all of which property shall be exempt from
16 taxation under chapter 4 of Title 54, Taxation, of the Revised
17 Statutes;

18 (4) To collect and disburse all money due to or payable by the
19 group, or authorize such collection and disbursement;

20 (5) To enter into contracts with other persons or with public
21 bodies of this State for any professional, administrative or other
22 services as may be necessary to carry out the purposes of the group
23 or any fund;

24 (6) To purchase and serve as the master policyholders if desired,
25 for any insurance, including excess or reinsurance;

26 (7) To prepare, or cause to be prepared, a risk management
27 program for the joint insurance group;

28 (8) As the need arises, from time to time, to amend the bylaws
29 or risk management program of the fund; except that no such
30 amendment shall take effect until approved in the following
31 manner:

32 (a) The trustees shall file with the commissioner, for his
33 approval: a copy of any amendment to the bylaws of the fund, upon
34 approval by resolution of three-fourths of the member school boards
35 or in such other manner as established by the fund and approved by
36 the commissioner; or any amendment to the risk management
37 program, upon adoption by the trustees.

38 (b) Within 60 days of receipt, the commissioner shall either
39 approve or disapprove any amendment to the bylaws or risk
40 management program. If the commissioner fails to either approve
41 or disapprove the amendment within that 60 day period, the
42 amendment shall be deemed approved;

43 (c) If any amendment is disapproved, the commissioner shall set
44 forth, in writing, the reasons for disapproval. Upon the receipt of
45 the notice of disapproval, the trustee of the affected joint insurance
46 fund may request a public hearing. The public hearing shall be
47 convened by the commissioner in a timely manner;

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1 (d) Within 90 days after the effective date of any amendment to
2 the bylaws, a member school board which did not approve the
3 amendment may withdraw from the fund, except that it shall remain
4 liable for its share of any claim or expense incurred by the fund
5 during its period of membership;

6 (9) To do all other things necessary and proper to carry out the
7 purposes for which the group is established.

8 (cf: P.L.1995, c.74, s.2)

9
10 4. (New section) Notwithstanding the provisions of any other
11 law to the contrary, and in addition to the powers otherwise
12 conferred by law, the trustees of a joint insurance fund established
13 pursuant to P.L.1983, c.108 (C.18A:18B-1 et seq.) and the
14 commissioners of a joint insurance fund established pursuant to
15 P.L.1983, c.372 (C.40A:10-36 et seq.), may amend the plan of risk
16 management of their respective funds to participate in a joint cash
17 management and investment program with other joint insurance
18 funds similarly established pursuant to P.L.1983, c.108
19 (C.18A:18B-1 et seq.) and P.L.1983, c.372 (C.40A:10-36 et seq.).
20 The joint insurance funds participating in this program shall jointly
21 file a cash management plan for prior approval by the
22 Commissioner of Banking and Insurance and the Commissioner of
23 Community Affairs and shall comply with all provisions of
24 P.L.1983, c.108 (C.18A:18B-1 et seq.) and P.L.1983, c.372
25 (C.40A:10-36 et seq.), as appropriate.

26
27 5. Section 1 of P.L.1977, c.177 (C.18A:20-37) is amended to
28 read as follows:

29 1. a. When authorized by resolution adopted by a majority
30 vote of all its members the board of education of any school district
31 may use moneys, which may be in hand, for the purchase of the
32 following types of securities which, if suitable for registry, may be
33 registered in the name of the school district:

34 (1) Bonds or other obligations of the United States of America
35 or obligations guaranteed by the United States of America;

36 (2) Government money market mutual funds;

37 (3) Any obligation that a federal agency or a federal
38 instrumentality has issued in accordance with an act of Congress,
39 which security has a maturity date not greater than 397 days from
40 the date of purchase, provided that such obligations bear a fixed rate
41 of interest not dependent on any index or other external factor;

42 (4) Bonds or other obligations of the school district or bonds or
43 other obligations of the local unit or units within which the school
44 district is located;

45 (5) Bonds or other obligations, having a maturity date of not
46 more than 397 days from the date of purchase, approved by the
47 Division of Investment in the Department of the Treasury for
48 investment by school districts;

1 (6) Local government investment pools;
2 (7) Deposits with the State of New Jersey Cash Management
3 Fund established pursuant to section 1 of P.L.1977, c.281
4 (C.52:18A-90.4); **[or]**

5 (8) Agreements for the repurchase of fully collateralized
6 securities, if:

7 (a) the underlying securities are permitted investments pursuant
8 to paragraphs (1) and (3) of this subsection a.;

9 (b) the custody of collateral is transferred to a third party;

10 (c) the maturity of the agreement is not more than 30 days;

11 (d) the underlying securities are purchased through a public
12 depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41)
13 and for which a master repurchase agreement providing for the
14 custody and security of collateral is executed; or

15 (9) Deposit of funds in accordance with the following
16 conditions:

17 (a) the funds are initially invested through a public depository
18 as defined in section 1 of P.L.1970, c.236 (C.17:9-41) designated by
19 the school district;

20 (b) the designated public depository arranges for the deposit of
21 the funds in deposit accounts in one or more federally insured banks
22 or savings and loan associations, for the account of the school
23 district;

24 (c) 100 percent of the principal and accrued interest of each
25 deposit is insured by the Federal Deposit Insurance Corporation or
26 the National Credit Union Share Insurance Fund;

27 (d) the designated public depository acts as custodian for the
28 school district with respect to those deposits; and

29 (e) on the same date that the school district's funds are
30 deposited pursuant to subparagraph (b) of this paragraph, the
31 designated public depository receives an amount of deposits from
32 customers of other financial institutions, wherever located, equal to
33 the amount of funds initially invested by the school district through
34 the designated public depository.

35 b. Any investment instruments in which the security is not
36 physically held by the school district shall be covered by a third
37 party custodial agreement which shall provide for the designation of
38 such investments in the name of the school board and prevent
39 unauthorized use of such investments.

40 c. Purchase of investment securities shall be executed by the
41 "delivery versus payment" method to ensure that securities are
42 either received by the school district or a third party custodian prior
43 to or upon the release of the school district's funds.

44 d. Any investments not purchased and redeemed directly from
45 the issuer, government money market mutual fund, local
46 government investment pool, or the State of New Jersey Cash
47 Management Fund, shall be purchased and redeemed through the
48 use of a national or State bank located within this State or through a

1 broker-dealer which, at the time of purchase or redemption, has
2 been registered continuously for a period of at least two years
3 pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least
4 \$25 million in capital stock (or equivalent capitalization if not a
5 corporation), surplus reserves for contingencies and undivided
6 profits, or through a securities dealer who makes primary markets
7 in U.S. Government securities and reports daily to the Federal
8 Reserve Bank of New York its position in and borrowing on such
9 U.S. Government securities.

10 e. For the purposes of this section:

11 (1) a "government money market mutual fund" means an
12 investment company or investment trust:

13 (a) which is registered with the Securities and Exchange
14 Commission under the "Investment Company Act of 1940," 15
15 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R.
16 s.270.2a-7;

17 (b) the portfolio of which is limited to U.S. Government
18 securities that meet the definition of an eligible security pursuant to
19 17 C.F.R. s.270.2a-7 and repurchase agreements that are
20 collateralized by such U.S. Government securities in which direct
21 investment may be made pursuant to paragraphs (1) and (3) of
22 subsection a. of this section ; and

23 (c) which is rated by a nationally recognized statistical rating
24 organization.

25 (2) a "local government investment pool" means an investment
26 pool:

27 (a) which is managed in accordance with 17 C.F.R. s.270.2a-7;

28 (b) which is rated in the highest category by a nationally
29 recognized statistical rating organization;

30 (c) the portfolio of which is limited to U.S. Government
31 securities that meet the definition of an eligible security pursuant to
32 17 C.F.R. s.270.2a-7 and repurchase agreements that are
33 collateralized by such U.S. Government securities in which direct
34 investment may be made pursuant to paragraphs (1) and (3) of
35 subsection a. of this section;

36 (d) which is in compliance with rules adopted pursuant to the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.) by the Local Finance Board of the Division of Local
39 Government Services in the Department of Community Affairs,
40 which rules shall provide for disclosure and reporting requirements,
41 and other provisions deemed necessary by the board to provide for
42 the safety, liquidity and yield of the investments;

43 (e) which does not permit investments in instruments that: are
44 subject to high price volatility with changing market conditions;
45 cannot reasonably be expected, at the time of interest rate
46 adjustment, to have a market value that approximates their par
47 value; or utilize an index that does not support a stable net asset
48 value; and

1 (f) which purchases and redeems investments directly from the
2 issuer, a government money market mutual fund, or the State of
3 New Jersey Cash Management Fund, or through the use of a
4 national or State bank located within this State, or through a broker-
5 dealer which, at the time of purchase or redemption, has been
6 registered continuously for a period of at least two years pursuant to
7 section 9 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million
8 in capital stock (or equivalent capitalization if not a corporation),
9 surplus reserves for contingencies and undivided profits, or through
10 a securities dealer who makes primary markets in U.S. Government
11 securities and reports daily to the Federal Reserve Bank of New
12 York its position in and borrowing on such U.S. Government
13 securities .

14 f. Investments in, or deposits or purchases of financial
15 instruments made pursuant to this section shall not be subject to the
16 requirements of the "Public School Contracts Law,"
17 N.J.S.18A:18A-1 et seq.
18 (cf: P.L.1997, c.148, s.1.)
19

20 6. N.J.S.40A:5-14 is amended to read as follows:

21 40A:5-14. a. Each local unit shall adopt a cash management
22 plan and shall deposit, or invest, or both deposit and invest, its
23 funds pursuant to that plan. The cash management plan shall
24 include:

25 (1) the designation of a public depository or depositories as
26 defined in section 1 of P.L.1970, c.236 (C.17:9-41) and may permit
27 deposits in such public depository or depositories as permitted in
28 section 4 of P.L.1970, c.236 (C.17:9-44) or in subsection i. of this
29 section;

30 (2) the designation of any fund that meets the requirements
31 established pursuant to section 8 of P.L.1977, c.396 (C.40A:5-
32 15.1);

33 (3) the authorization for investments as permitted pursuant to
34 section 8 of P.L.1977, c.396 (C.40A:5-15.1); or

35 (4) any combination of the designations or authorizations
36 permitted pursuant to this subsection a.

37 b. The cash management plan shall be approved annually by
38 majority vote of the governing body of the local unit and may be
39 modified from time to time in order to reflect changes in federal or
40 State law or regulations, or in the designations of depositories,
41 funds or investment instruments or the authorization for
42 investments. The chief financial officer of the local unit shall be
43 charged with administering the plan.

44 c. The cash management plan shall be designed to assure to the
45 extent practicable the investment of local funds in interest bearing
46 accounts and other permitted investments. The cash management
47 plan shall be subject to the annual audit conducted pursuant to
48 N.J.S.40A:5-4. When an investment in bonds maturing in more

- 1 than one year is authorized, the maturity of those bonds shall
2 approximate the prospective use of the funds invested.
- 3 d. The cash management plan may include authorization to
4 invest in any of the investments authorized pursuant to section 8 of
5 P.L.1977, c.396 (C.40A:5-15.1) and shall set policies for selecting
6 and evaluating investment instruments accordingly. Such policies
7 shall consider preservation of capital, liquidity, current and
8 historical investment returns, diversification, maturity requirements,
9 costs and fees, and when appropriate, policies of investment
10 instrument administrators. Policies shall be based on a cash flow
11 analysis prepared by the chief financial officer and be
12 commensurate with the nature and size of the funds held by the
13 local unit. All investments shall be made on a competitive basis
14 insofar as practicable.
- 15 e. The cash management plan shall require a monthly report to
16 the governing body summarizing all investments made or redeemed
17 since the last meeting. The report shall set forth each organization
18 holding local unit funds, the amount of securities purchased or sold,
19 class or type of securities purchased, book value, earned income,
20 fees incurred, and market value of all investments as of the report
21 date and other information that may be required by the governing
22 body.
- 23 f. The official charged with the custody of moneys of a local
24 unit shall deposit or invest them as designated or authorized by the
25 cash management plan pursuant to subsection a. of this section and
26 shall thereafter be relieved of any liability for loss of such moneys
27 due to the insolvency or closing of any depository designated by, or
28 the decrease in value of any investment authorized by, the cash
29 management plan pursuant to subsection a. of this section.
- 30 g. Any official involved in the designation of depositories or in
31 the authorization for investments as permitted pursuant to section 8
32 of P.L.1977, c.396 (C.40A:5-15.1), or any combination of the
33 preceding, or the selection of an entity seeking to sell an investment
34 to the local unit who has a material business or personal
35 relationship with that organization shall disclose that relationship to
36 the governing body of the local unit and to the Local Finance Board
37 or a county or municipal ethics board, as appropriate.
- 38 h. The registered principal of any security brokerage firm
39 selling securities to the local unit shall be provided with, and sign
40 an acknowledgment that the principal has seen and reviewed the
41 local unit's cash management plan, except that with respect to the
42 sale of a government money market mutual fund, the registered
43 principal need only be provided with and sign an acknowledgment
44 that the government money market mutual fund whose securities are
45 being sold to the local unit meets the criteria of a government
46 money market mutual fund as set forth in paragraph (1) of
47 subsection e. of section 8 of P.L.1977, c.396 (C.40A:5-15.1).

- 1 i. The cash management plan may provide for the **purchase of**
2 **certificates of** deposit of funds in deposit accounts in accordance
3 with the following conditions:
- 4 (1) the funds are initially invested through a public depository
5 as defined in section 1 of P.L.1970, c.236 (C.17:9-41) designated by
6 the local unit;
- 7 (2) the designated public depository arranges for the deposit of
8 the funds in **certificates of** deposit accounts in one or more
9 federally insured banks or savings and loans associations, for the
10 account of the local unit;
- 11 (3) 100 percent of the principal and accrued interest of each
12 **certificate of** deposit is insured by the Federal Deposit Insurance
13 Corporation;
- 14 (4) the designated public depository acts as custodian for the
15 local unit with respect to **the certificates of deposit issued for the**
16 **local unit's account** those deposits; and
- 17 (5) **at** on the same **time** date that the local unit's funds are
18 deposited **and the certificates of deposit are issued** pursuant to
19 paragraph (2) of this subsection, the designated public depository
20 receives an amount of deposits from customers of other **banks and**
21 **savings and loan associations** financial institutions, wherever
22 located, equal to the amount of funds initially invested by the local
23 unit through the designated public depository.
24 (cf: P.L.2007, c.241, s.1.)
25

26 7. This act shall take effect immediately.
27
28

29 STATEMENT 30

31 This bill authorizes certain joint insurance funds to invest in
32 certain bonds, notes, and other obligations of State and federal
33 agencies and to form joint cash management and investment
34 programs as a means to broaden the types of securities joint
35 insurance funds may invest in and to reduce the amount of assets
36 that must be held in short-term investments to cover the cash flow
37 needs of the funds.

38 Under current law, local unit joint insurance funds and board of
39 education joint insurance funds (commonly referred to as "JIFs")
40 are authorized to invest certain assets that are held in trust by the
41 funds. The law permits these JIFs to invest fund assets directly on
42 their own behalf or, alternatively, by transferring the assets to the
43 Division of Investment in the Department of the Treasury for
44 investment by the division on behalf of the funds.

45 The laws authorizing the investment of assets place certain
46 restrictions on the types of securities available for investment.
47 These restrictions limit the types of securities that JIFs may invest

1 in to more conservative, short-term instruments that protect the
2 principal of the investments at the expense of earnings.

3 This bill amends current law to allow JIFs to directly invest
4 assets held in trust by the funds in additional types of securities that
5 are less conservative and typically have longer investment horizons,
6 but have the potential to increase earnings on investments. Under
7 the bill, JIFs are authorized to invest fund assets in bonds, notes,
8 and other obligations issued by an agency or corporation of the
9 federal government or a governmental entity established under the
10 laws of this State.

11 In doing so, the bill imposes certain limits on the types of bonds,
12 notes, and other obligations that JIFs are authorized to invest in, and
13 prohibits the investment of assets in bonds, notes, and obligations
14 issued by certain entities. The bill provides that JIFs may invest in
15 bonds, notes, and other obligations issued by an agency or
16 corporation of the federal government or a governmental entity
17 established under the laws of this State so long as the agency,
18 corporation, or governmental entity responsible for the issuance is
19 not in default upon any of its outstanding obligations, and so long
20 as the bonds, notes, or other obligations are purchased at fair market
21 value, guaranteed as to interest and principal, and have a credit
22 rating of A3 or higher by Moody's Investor Services, Inc., A- or
23 higher by Standard & Poor's Corporation, and A- or higher by Fitch
24 Ratings.

25 In addition, the bill authorizes JIFs to amend their respective risk
26 management plans to participate in a joint cash management and
27 investment program with other JIFs that are similarly established.
28 The bill requires JIFs electing to participate in a joint cash
29 management and investment program to jointly file a cash
30 management plan for prior approval by the Commissioner of
31 Banking and Insurance and the Commissioner of Community
32 Affairs and to comply with all provisions of current law governing
33 the establishment of JIFs.

34 The bill also authorizes school districts and local units of
35 government to deposit public funds into multiple FDIC-insured
36 accounts.

37 Current law directs local governments to adopt cash management
38 plans and to invest funds pursuant to those plans. Similarly, school
39 districts are permitted to invest their funds in a variety of ways.
40 Current law does not expressly permit local governments or school
41 districts to deposit funds into multiple FDIC-insured accounts.
42 Pursuant to this bill, those deposits would be allowed.

43 Specifically, the bill provides that school districts and local units
44 of government may deposit funds in accordance with the following
45 conditions:

46 (1) the funds are initially invested through a public depository
47 designated by the school district or local unit;

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14

1 (2) the designated public depository arranges for the deposit of
2 the funds in deposit accounts in one or more federally insured banks
3 or savings and loan associations, for the account of the school
4 district or local unit;

5 (3) 100 percent of the principal and accrued interest of each
6 deposit is insured by the Federal Deposit Insurance Corporation;

7 (4) the designated public depository acts as custodian for the
8 school district or local unit with respect to those deposits; and

9 (5) on the same date that the funds are deposited, the designated
10 public depository receives an amount of deposits from customers of
11 other financial institutions, wherever located, equal to the amount
12 of funds initially invested by the school district through the
13 designated public depository.

14 The bill is scheduled to take effect immediately upon enactment.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3122

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2018

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 3122.

As amended, this bill authorizes certain joint insurance funds to invest in certain bonds, notes, and other obligations of State and federal agencies and to form joint cash management and investment programs as a means to broaden the types of securities joint insurance funds may invest in and to reduce the amount of assets that must be held in short-term investments to cover the cash flow needs of the funds.

Under current law, local unit joint insurance funds and board of education joint insurance funds (commonly referred to as "JIFs") are authorized to invest certain assets that are held in trust by the funds. The law permits these JIFs to invest fund assets directly on their own behalf or, alternatively, by transferring the assets to the Division of Investment in the Department of the Treasury for investment by the division on behalf of the funds.

The laws authorizing the investment of assets place certain restrictions on the types of securities available for investment. These restrictions limit the types of securities that JIFs may invest in to more conservative, short-term instruments that protect the principal of the investments at the expense of earnings.

This bill amends current law to allow JIFs to directly invest assets held in trust by the funds in additional types of securities that are less conservative and typically have longer investment horizons, but have the potential to increase earnings on investments. Under the bill, JIFs are authorized to invest fund assets in bonds, notes, and other obligations issued by an agency or corporation of the federal government or a governmental entity established under the laws of this State.

In doing so, the bill imposes certain limits on the types of bonds, notes, and other obligations that JIFs are authorized to invest in, and prohibits the investment of assets in bonds, notes, and obligations issued by certain entities. The bill provides that JIFs may invest in

bonds, notes, and other obligations issued by an agency or corporation of the federal government or a governmental entity established under the laws of this State so long as the agency, corporation, or governmental entity responsible for the issuance is not in default upon any of its outstanding obligations, and so long as the bonds, notes, or other obligations are purchased at fair market value, guaranteed as to interest and principal, and have a credit rating of A3 or higher by Moody's Investor Services, Inc., A- or higher by Standard & Poor's Corporation, and A- or higher by Fitch Ratings.

In addition, the bill authorizes JIFs to amend their respective risk management plans to participate in a joint cash management and investment program with other JIFs that are similarly established. The bill requires JIFs electing to participate in a joint cash management and investment program to jointly file a cash management plan for prior approval by the Commissioner of Banking and Insurance and the Commissioner of Community Affairs and to comply with all provisions of current law governing the establishment of JIFs.

The bill also authorizes school districts and local units of government to deposit public funds into multiple FDIC-insured accounts.

Current law directs local governments to adopt cash management plans and to invest funds pursuant to those plans. Similarly, school districts are permitted to invest their funds in a variety of ways. Current law does not expressly permit local governments or school districts to deposit funds into multiple FDIC-insured accounts. Pursuant to this bill, those deposits would be allowed.

Specifically, the bill provides that school districts and local units of government may deposit funds in accordance with the following conditions:

(1) the funds are initially invested through a public depository designated by the school district or local unit;

(2) the designated public depository arranges for the deposit of the funds in deposit accounts in one or more federally insured banks or savings and loan associations, for the account of the school district or local unit;

(3) 100 percent of the principal and accrued interest of each deposit is insured by the Federal Deposit Insurance Corporation;

(4) the designated public depository acts as custodian for the school district or local unit with respect to those deposits; and

(5) on the same date that the funds are deposited, the designated public depository receives an amount of deposits from customers of other financial institutions, wherever located, equal to the amount of funds initially invested by the school district through the designated public depository.

The bill is scheduled to take effect immediately upon enactment.

COMMITTEE AMENDMENTS:

The committee made a technical amendment to section 5 of the bill to reflect changes made to section 1 of P.L.1977, c.177 (C.18A:20-37) by P.L.2017, c.310. Those changes were not reflected in section 5 of A3122 at the time it was introduced. The committee amendments correct this situation by inserting the most recent version of the law into section 5 of A3122.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3122

with Assembly Floor Amendments
(Proposed by Assemblyman BURZICHELLI)

ADOPTED: MARCH 26, 2018

This floor amendment clarifies that federally-insured credit unions can be public depositories for purposes of this bill, in addition to banks and savings and loan associations.

SENATE, No. 871

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Senator Cardinale

SYNOPSIS

Allows certain joint insurance funds to make certain investments and to form certain investment programs; authorizes school districts and local units of government to deposit public funds into multiple FDIC-insured accounts.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S871 SWEENEY

2

1 AN ACT concerning certain joint insurance funds and certain
2 deposits of public funds, amending P.L.1977, c.177 and
3 N.J.S.40A:5-14 and amending and supplementing P.L.1983,
4 c.372 and P.L.1983, c.108.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 3 of P.L.1983, c.372 (C.40A:10-38) is amended to
10 read as follows:

11 3. a. The commissioners of a joint insurance fund shall have
12 the powers and authority granted to commissioners of individual
13 local insurance funds under the provisions of subsections a., b., c.,
14 and e. of N.J.S.40A:10-10.

15 b. The commissioners may invest and reinvest the funds,
16 including workers' compensation funds, as authorized under the
17 provisions of subsection b. of N.J.S.40A:10-10. The commissioners
18 may, subject to the cash management plan of the joint insurance
19 fund adopted pursuant to N.J.S.40A:5-14, delegate any of the
20 functions, powers and duties relating to the investment and
21 reinvestment of these funds, including the purchase, sale or
22 exchange of any investments, securities or funds to an investment or
23 asset manager. Any transfer of investment power and duties made
24 pursuant to this subsection shall be detailed in a written contract for
25 services between the joint insurance fund and an investment or asset
26 manager. The contract shall be filed with the Commissioner of
27 Banking and Insurance and the Commissioner of Community
28 Affairs. Compensation under such an arrangement shall not be
29 based upon commissions related to the purchase, sale or exchange
30 of any investments, securities or funds. In addition to the types of
31 securities in which the joint insurance fund may invest pursuant to
32 section 8 of P.L.1977, c.396 (C.40A:5-15.1), a joint insurance fund
33 may invest moneys held in the fund in bonds, notes, and other
34 obligations issued by an agency or corporation of the federal
35 government or a governmental entity established under the laws of
36 this State, provided that the agency, corporation, or governmental
37 entity responsible for the issuance of the bonds, notes, or other
38 obligations is not in default as to the payment of principal or
39 interest upon any of its outstanding obligations, and provided
40 further that the bonds, notes, or other obligations are purchased at
41 fair market value, guaranteed as to interest and principal, and have a
42 credit rating of A3 or higher by Moody's Investor Services, Inc., A-
43 or higher by Standard & Poor's Corporation, and A- or higher by
44 Fitch Ratings, except that two of the three ratings is sufficient and
45 one of the three ratings is sufficient if only one rating is available.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 If a rating for the bonds, notes, or other obligations has not been
2 obtained from one of the credit rating agencies, the bonds, notes, or
3 other obligations may be purchased if the agency, corporation, or
4 governmental entity responsible for the issuance meets the
5 minimum rating criteria specified by the previous sentence.

6 c. The commissioners may transfer moneys held in the fund to
7 the Director of the Division of Investment in the Department of the
8 Treasury for investment on behalf of the fund, pursuant to the
9 written directions of the commissioners, signed by an authorized
10 officer of the joint insurance fund, or any investment or asset
11 manager designated by them. The commissioners shall provide a
12 written notice to the director detailing the extent of the authority
13 delegated to the investment or asset manager so designated to act on
14 behalf of the joint insurance fund. Moneys transferred to the
15 director for investment shall be invested subject to section 8 of
16 P.L.1977, c.396 (C.40A:5-15.1), and in accordance with the
17 standards governing the investment of other funds which are
18 managed under the rules and regulations of the State Investment
19 Council. In addition to the types of securities in which the joint
20 insurance fund may invest pursuant to section 8 of P.L.1977, c.396
21 (C.40A:5-15.1), a joint insurance fund may invest in debt
22 obligations of federal agencies or government corporations with
23 maturities not to exceed 10 years from the date of purchase,
24 excluding mortgage backed or derivative obligations, provided that
25 the investments are purchased through the Division of Investment
26 and are invested consistent with the rules and regulations of the
27 State Investment Council.

28 d. Moneys transferred to the director for investment may not
29 thereafter be withdrawn except: (1) pursuant to the written
30 directions of the commissioners signed by an authorized officer of
31 the joint insurance fund, or any investment or asset manager
32 designated by them; (2) upon withdrawal or expulsion of a member
33 local unit from the fund; (3) termination of the fund; or (4) in
34 specific amounts in payment of specific claims, administrative
35 expenses or member dividends upon affidavit of the director or
36 other chief executive officer of the joint insurance fund.

37 e. The commissioners or the executive board, as the case may
38 be, of any joint insurance fund established pursuant to the
39 provisions of this act shall be subject to and operate in compliance
40 with the provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-
41 1 et seq.), the "Local Public Contracts Law," P.L.1971, c.198
42 (C.40A:11-1 et seq.) and such other rules and regulations as govern
43 the custody, investment and expenditure of public funds by local
44 units.
45 (cf: P.L.1995, c.374, s.1)

46
47 2. (New section) Notwithstanding the provisions of any other
48 law to the contrary, and in addition to the powers otherwise

1 conferred by law, the commissioners of a joint insurance fund
2 established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), and
3 the trustees of a joint insurance fund established pursuant to
4 P.L.1983, c.108 (C.18A:18B-1 et seq.) may amend the plan of risk
5 management of their respective funds to participate in a joint cash
6 management and investment program with other joint insurance
7 funds similarly established pursuant to P.L.1983, c.372 (C.40A:10-
8 36 et seq.), and P.L.1983, c.108 (C.18A:18B-1 et seq.). The joint
9 insurance funds participating in this program shall jointly file a cash
10 management plan for prior approval by the Commissioner of
11 Banking and Insurance and the Commissioner of Community
12 Affairs and shall comply with all provisions of P.L.1983, c.372
13 (C.40A:10-36 et seq.) and P.L.1983, c.108 (C.18A:18B-1 et seq.),
14 as appropriate.

15

16 3. Section 4 of P.L.1983, c.108 (C.18A:18B-4) is amended to
17 read as follows:

18 4. Bylaws of the group; trustees; powers.

19 a. The bylaws of any school board insurance group shall:

20 (1) Set forth a statement of purposes of the group;

21 (2) Set forth provisions for organization of the group, including
22 governance by a board of trustees;

23 (3) Provide for the delivery of a risk management program in
24 conjunction with any joint self-insurance fund or funds which the
25 board of trustees shall establish. The risk management program
26 shall include, but not be limited to:

27 (a) the perils of liabilities to be insured against;

28 (b) limits of coverage, whether self-insurance, direct insurance
29 purchased from a commercial carrier or reinsurance;

30 (c) the amount of risk to be retained by the fund;

31 (d) the amount of reserves to be established;

32 (e) the proposed method of assessing contributions to be paid by
33 each member of the fund;

34 (f) procedures governing loss adjustment and legal fees;

35 (g) coverage to be purchased from a commercial insurer, if any;

36 (h) reinsurance to be purchased, if any, and the amount of
37 premium therefor; and

38 (i) such other procedures and information as the commissioner
39 may require by rule or regulation;

40 (4) Set forth procedures to enforce the collection of any
41 contributions or payments in default;

42 (5) Set forth membership standards as required in section 3 of
43 P.L.1983, c.108 (C.18A:18B-3);

44 (6) Require that, for each joint self-insurance fund, a contract or
45 contracts of specific and aggregate excess insurance or reinsurance
46 is maintained;

47 (7) Set forth procedures for:

48 (a) Withdrawal from the group and a fund by a member;

- 1 (b) Termination of the group or fund and disposition of assets;
2 and
- 3 (c) Determining the obligations, if any, of a member in the
4 event that the group is unable to pay indemnification obligations
5 and expenses payable from a fund administered by it;
- 6 (8) Require an annual certified audit to be prepared and filed
7 with the commissioner;
- 8 (9) Require that any joint self-insurance fund or funds be
9 developed and operated in accordance with accepted and sound
10 actuarial practices;
- 11 (10) Provide that any expenditure of moneys in a fund be in
12 furtherance of the purpose of the fund;
- 13 (11) Set forth other provisions as desired for operation and
14 governance of the group;
- 15 (12) Provide for expulsion of a member; and
- 16 (13) Comply with any requirement established by the
17 commissioner by rule or regulation.
- 18 b. The bylaws of a group shall provide for governance of the
19 group by a board of trustees selected in accordance with the
20 provisions of the bylaws. The bylaws shall provide for trustee
21 powers and duties and shall include, but not be limited to, the
22 following powers of the board of trustees:
- 23 (1) To determine and establish contributions and rates, loss
24 reserves, surplus, limits of coverage, limits of excess or reinsurance,
25 coverage documents, dividends and other financial and operating
26 policies of the group or fund;
- 27 (2) To invest moneys held in trust under any fund in investments
28 which are approved for investment by regulation of the State
29 Investment Council for surplus moneys of the State or, at the
30 discretion of the board, to transfer moneys held in trust under any
31 fund to the Director of the Division of Investment in the
32 Department of the Treasury for investment on behalf of the board in
33 accordance with the standards governing the investment of other
34 funds which are managed under the rules and regulations of the
35 State Investment Council. However, any moneys transferred to the
36 director for investment may not thereafter be withdrawn except
37 upon withdrawal of a member from the group or a fund or
38 termination of the group or a fund or in specific amounts in
39 payment of specific claims, administrative expenses or member
40 dividends upon affidavit of the director or other chief executive
41 officer of the group. In addition to the types of securities in which
42 the joint insurance fund may otherwise invest, a joint insurance
43 fund may invest moneys held in trust under any fund in bonds,
44 notes, and other obligations issued by an agency or corporation of
45 the federal government or a governmental entity established under
46 the laws of this State, provided that the agency, corporation, or
47 governmental entity responsible for the issuance of the bonds,
48 notes, or other obligations is not in default as to the payment of

1 principal or interest upon any of its outstanding obligations, and
2 provided further that the bonds, notes, or other obligations are
3 purchased at fair market value, guaranteed as to interest and
4 principal, and have a credit rating of A3 or higher by Moody's
5 Investor Services, Inc., A- or higher by Standard & Poor's
6 Corporation, and A- or higher by Fitch Ratings, except that two of
7 the three ratings is sufficient and one of the three ratings is
8 sufficient if only one rating is available. If a rating for the bonds,
9 notes, or other obligations has not been obtained from one of the
10 credit rating agencies, the bonds, notes, or other obligations may be
11 purchased if the agency, corporation, or governmental entity
12 responsible for the issuance meets the minimum rating criteria
13 specified by the previous sentence;

14 (3) To purchase, acquire, hold, lease, sell and convey real and
15 personal property, all of which property shall be exempt from
16 taxation under chapter 4 of Title 54, Taxation, of the Revised
17 Statutes;

18 (4) To collect and disburse all money due to or payable by the
19 group, or authorize such collection and disbursement;

20 (5) To enter into contracts with other persons or with public
21 bodies of this State for any professional, administrative or other
22 services as may be necessary to carry out the purposes of the group
23 or any fund;

24 (6) To purchase and serve as the master policyholders if desired,
25 for any insurance, including excess or reinsurance;

26 (7) To prepare, or cause to be prepared, a risk management
27 program for the joint insurance group;

28 (8) As the need arises, from time to time, to amend the bylaws
29 or risk management program of the fund; except that no such
30 amendment shall take effect until approved in the following
31 manner:

32 (a) The trustees shall file with the commissioner, for his
33 approval: a copy of any amendment to the bylaws of the fund, upon
34 approval by resolution of three-fourths of the member school boards
35 or in such other manner as established by the fund and approved by
36 the commissioner; or any amendment to the risk management
37 program, upon adoption by the trustees.

38 (b) Within 60 days of receipt, the commissioner shall either
39 approve or disapprove any amendment to the bylaws or risk
40 management program. If the commissioner fails to either approve
41 or disapprove the amendment within that 60 day period, the
42 amendment shall be deemed approved;

43 (c) If any amendment is disapproved, the commissioner shall set
44 forth, in writing, the reasons for disapproval. Upon the receipt of
45 the notice of disapproval, the trustee of the affected joint insurance
46 fund may request a public hearing. The public hearing shall be
47 convened by the commissioner in a timely manner;

1 (d) Within 90 days after the effective date of any amendment to
2 the bylaws, a member school board which did not approve the
3 amendment may withdraw from the fund, except that it shall remain
4 liable for its share of any claim or expense incurred by the fund
5 during its period of membership;

6 (9) To do all other things necessary and proper to carry out the
7 purposes for which the group is established.
8 (cf: P.L.1995, c.74, s.2)

9
10 4. (New section) Notwithstanding the provisions of any other
11 law to the contrary, and in addition to the powers otherwise
12 conferred by law, the trustees of a joint insurance fund established
13 pursuant to P.L.1983, c.108 (C.18A:18B-1 et seq.) and the
14 commissioners of a joint insurance fund established pursuant to
15 P.L.1983, c.372 (C.40A:10-36 et seq.), may amend the plan of risk
16 management of their respective funds to participate in a joint cash
17 management and investment program with other joint insurance
18 funds similarly established pursuant to P.L.1983, c.108
19 (C.18A:18B-1 et seq.) and P.L.1983, c.372 (C.40A:10-36 et seq.).
20 The joint insurance funds participating in this program shall jointly
21 file a cash management plan for prior approval by the
22 Commissioner of Banking and Insurance and the Commissioner of
23 Community Affairs and shall comply with all provisions of
24 P.L.1983, c.108 (C.18A:18B-1 et seq.) and P.L.1983, c.372
25 (C.40A:10-36 et seq.), as appropriate.

26
27 5. Section 1 of P.L.1977, c.177 (C.18A:20-37) is amended to
28 read as follows:

29 1. a. When authorized by resolution adopted by a majority vote
30 of all its members the board of education of any school district may
31 use moneys, which may be in hand, for the purchase of the
32 following types of securities which, if suitable for registry, may be
33 registered in the name of the school district:

34 (1) Bonds or other obligations of the United States of America
35 or obligations guaranteed by the United States of America;

36 (2) Government money market mutual funds;

37 (3) Any obligation that a federal agency or a federal
38 instrumentality has issued in accordance with an act of Congress,
39 which security has a maturity date not greater than 397 days from
40 the date of purchase, provided that such obligations bear a fixed rate
41 of interest not dependent on any index or other external factor;

42 (4) Bonds or other obligations of the school district or bonds or
43 other obligations of the local unit or units within which the school
44 district is located;

45 (5) Bonds or other obligations, having a maturity date of not
46 more than 397 days from the date of purchase, approved by the
47 Division of Investment in the Department of the Treasury for
48 investment by school districts;

- 1 (6) Local government investment pools;
- 2 (7) Deposits with the State of New Jersey Cash Management
3 Fund established pursuant to section 1 of P.L.1977, c.281
4 (C.52:18A-90.4); **[or]**
- 5 (8) Agreements for the repurchase of fully collateralized
6 securities, if:
- 7 (a) the underlying securities are permitted investments pursuant
8 to paragraphs (1) and (3) of this subsection a.;
- 9 (b) the custody of collateral is transferred to a third party;
- 10 (c) the maturity of the agreement is not more than 30 days;
- 11 (d) the underlying securities are purchased through a public
12 depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41)
13 and for which a master repurchase agreement providing for the
14 custody and security of collateral is executed; or
- 15 (9) Deposit of funds in accordance with the following
16 conditions:
- 17 (a) the funds are initially invested through a public depository
18 as defined in section 1 of P.L.1970, c.236 (C.17:9-41) designated by
19 the school district;
- 20 (b) the designated public depository arranges for the deposit of
21 the funds in deposit accounts in one or more federally insured banks
22 or savings and loan associations, for the account of the school
23 district;
- 24 (c) 100 percent of the principal and accrued interest of each
25 deposit is insured by the Federal Deposit Insurance Corporation or
26 the National Credit Union Share Insurance Fund;
- 27 (d) the designated public depository acts as custodian for the
28 school district with respect to those deposits; and
- 29 (e) on the same date that the school district's funds are
30 deposited pursuant to subparagraph (b) of this paragraph, the
31 designated public depository receives an amount of deposits from
32 customers of other financial institutions, wherever located, equal to
33 the amount of funds initially invested by the school district through
34 the designated public depository.
- 35 b. Any investment instruments in which the security is not
36 physically held by the school district shall be covered by a third
37 party custodial agreement which shall provide for the designation of
38 such investments in the name of the school board and prevent
39 unauthorized use of such investments.
- 40 c. Purchase of investment securities shall be executed by the
41 "delivery versus payment" method to ensure that securities are
42 either received by the school district or a third party custodian prior
43 to or upon the release of the school district's funds.
- 44 d. Any investments not purchased and redeemed directly from
45 the issuer, government money market mutual fund, local
46 government investment pool, or the State of New Jersey Cash
47 Management Fund, shall be purchased and redeemed through the
48 use of a national or State bank located within this State or through a

1 broker-dealer which, at the time of purchase or redemption, has
2 been registered continuously for a period of at least two years
3 pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least
4 \$25 million in capital stock (or equivalent capitalization if not a
5 corporation), surplus reserves for contingencies and undivided
6 profits, or through a securities dealer who makes primary markets
7 in U.S. Government securities and reports daily to the Federal
8 Reserve Bank of New York its position in and borrowing on such
9 U.S. Government securities.

10 e. For the purposes of this section:

11 (1) a "government money market mutual fund" means an
12 investment company or investment trust:

13 (a) which is registered with the Securities and Exchange
14 Commission under the "Investment Company Act of 1940," 15
15 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R.
16 s.270.2a-7;

17 (b) the portfolio of which is limited to U.S. Government
18 securities that meet the definition of an eligible security pursuant to
19 17 C.F.R. s.270.2a-7 and repurchase agreements that are
20 collateralized by such U.S. Government securities in which direct
21 investment may be made pursuant to paragraphs (1) and (3) of
22 subsection a. of this section; and

23 (c) which is rated by a nationally recognized statistical rating
24 organization.

25 (2) a "local government investment pool" means an investment
26 pool:

27 (a) which is managed in accordance with 17 C.F.R. s.270.2a-7;

28 (b) which is rated in the highest category by a nationally
29 recognized statistical rating organization;

30 (c) the portfolio of which is limited to U.S. Government
31 securities that meet the definition of an eligible security pursuant to
32 17 C.F.R. s.270.2a-7 and repurchase agreements that are
33 collateralized by such U.S. Government securities in which direct
34 investment may be made pursuant to paragraphs (1) and (3) of
35 subsection a. of this section;

36 (d) which is in compliance with rules adopted pursuant to the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.) by the Local Finance Board of the Division of Local
39 Government Services in the Department of Community Affairs,
40 which rules shall provide for disclosure and reporting requirements,
41 and other provisions deemed necessary by the board to provide for
42 the safety, liquidity and yield of the investments;

43 (e) which does not permit investments in instruments that: are
44 subject to high price volatility with changing market conditions;
45 cannot reasonably be expected, at the time of interest rate
46 adjustment, to have a market value that approximates their par
47 value; or utilize an index that does not support a stable net asset
48 value; and

1 (f) which purchases and redeems investments directly from the
2 issuer, a government money market mutual fund, or the State of
3 New Jersey Cash Management Fund, or through the use of a
4 national or State bank located within this State, or through a broker-
5 dealer which, at the time of purchase or redemption, has been
6 registered continuously for a period of at least two years pursuant to
7 section 9 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million
8 in capital stock (or equivalent capitalization if not a corporation),
9 surplus reserves for contingencies and undivided profits, or through
10 a securities dealer who makes primary markets in U.S. Government
11 securities and reports daily to the Federal Reserve Bank of New
12 York its position in and borrowing on such U.S. Government
13 securities .

14 f. Investments in, or deposits or purchases of financial
15 instruments made pursuant to this section shall not be subject to the
16 requirements of the "Public School Contracts Law,"
17 N.J.S.18A:18A-1 et seq.
18 (cf: P.L.1997, c.148, s.1.)
19

20 6. N.J.S.40A:5-14 is amended to read as follows:

21 40A:5-14. a. Each local unit shall adopt a cash management
22 plan and shall deposit, or invest, or both deposit and invest, its
23 funds pursuant to that plan. The cash management plan shall
24 include:

25 (1) the designation of a public depository or depositories as
26 defined in section 1 of P.L.1970, c.236 (C.17:9-41) and may permit
27 deposits in such public depository or depositories as permitted in
28 section 4 of P.L.1970, c.236 (C.17:9-44) or in subsection i. of this
29 section;

30 (2) the designation of any fund that meets the requirements
31 established pursuant to section 8 of P.L.1977, c.396 (C.40A:5-
32 15.1);

33 (3) the authorization for investments as permitted pursuant to
34 section 8 of P.L.1977, c.396 (C.40A:5-15.1); or

35 (4) any combination of the designations or authorizations
36 permitted pursuant to this subsection a.

37 b. The cash management plan shall be approved annually by
38 majority vote of the governing body of the local unit and may be
39 modified from time to time in order to reflect changes in federal or
40 State law or regulations, or in the designations of depositories,
41 funds or investment instruments or the authorization for
42 investments. The chief financial officer of the local unit shall be
43 charged with administering the plan.

44 c. The cash management plan shall be designed to assure to the
45 extent practicable the investment of local funds in interest bearing
46 accounts and other permitted investments. The cash management
47 plan shall be subject to the annual audit conducted pursuant to
48 N.J.S.40A:5-4. When an investment in bonds maturing in more

1 than one year is authorized, the maturity of those bonds shall
2 approximate the prospective use of the funds invested.

3 d. The cash management plan may include authorization to
4 invest in any of the investments authorized pursuant to section 8 of
5 P.L.1977, c.396 (C.40A:5-15.1) and shall set policies for selecting
6 and evaluating investment instruments accordingly. Such policies
7 shall consider preservation of capital, liquidity, current and
8 historical investment returns, diversification, maturity requirements,
9 costs and fees, and when appropriate, policies of investment
10 instrument administrators. Policies shall be based on a cash flow
11 analysis prepared by the chief financial officer and be
12 commensurate with the nature and size of the funds held by the
13 local unit. All investments shall be made on a competitive basis
14 insofar as practicable.

15 e. The cash management plan shall require a monthly report to
16 the governing body summarizing all investments made or redeemed
17 since the last meeting. The report shall set forth each organization
18 holding local unit funds, the amount of securities purchased or sold,
19 class or type of securities purchased, book value, earned income,
20 fees incurred, and market value of all investments as of the report
21 date and other information that may be required by the governing
22 body.

23 f. The official charged with the custody of moneys of a local
24 unit shall deposit or invest them as designated or authorized by the
25 cash management plan pursuant to subsection a. of this section and
26 shall thereafter be relieved of any liability for loss of such moneys
27 due to the insolvency or closing of any depository designated by, or
28 the decrease in value of any investment authorized by, the cash
29 management plan pursuant to subsection a. of this section.

30 g. Any official involved in the designation of depositories or in
31 the authorization for investments as permitted pursuant to section 8
32 of P.L.1977, c.396 (C.40A:5-15.1), or any combination of the
33 preceding, or the selection of an entity seeking to sell an investment
34 to the local unit who has a material business or personal
35 relationship with that organization shall disclose that relationship to
36 the governing body of the local unit and to the Local Finance Board
37 or a county or municipal ethics board, as appropriate.

38 h. The registered principal of any security brokerage firm
39 selling securities to the local unit shall be provided with, and sign
40 an acknowledgment that the principal has seen and reviewed the
41 local unit's cash management plan, except that with respect to the
42 sale of a government money market mutual fund, the registered
43 principal need only be provided with and sign an acknowledgment
44 that the government money market mutual fund whose securities are
45 being sold to the local unit meets the criteria of a government
46 money market mutual fund as set forth in paragraph (1) of
47 subsection e. of section 8 of P.L.1977, c.396 (C.40A:5-15.1).

1 i. The cash management plan may provide for the **purchase of**
2 **certificates of deposit** of funds in deposit accounts in accordance
3 with the following conditions:

4 (1) the funds are initially invested through a public depository
5 as defined in section 1 of P.L.1970, c.236 (C.17:9-41) designated by
6 the local unit;

7 (2) the designated public depository arranges for the deposit of
8 the funds in **certificates of deposit** accounts in one or more
9 federally insured banks or savings and loans associations, for the
10 account of the local unit;

11 (3) 100 percent of the principal and accrued interest of each
12 **certificate of deposit** is insured by the Federal Deposit Insurance
13 Corporation;

14 (4) the designated public depository acts as custodian for the
15 local unit with respect to **the certificates of deposit issued for the**
16 **local unit's account** those deposits; and

17 (5) **at** on the same **time** date that the local unit's funds are
18 deposited **and the certificates of deposit are issued** pursuant to
19 paragraph (2) of this subsection, the designated public depository
20 receives an amount of deposits from customers of other **banks and**
21 **savings and loan associations** financial institutions, wherever
22 located, equal to the amount of funds initially invested by the local
23 unit through the designated public depository.

24 (cf: P.L.2007, c.241, s.1.)

25
26 7. This act shall take effect immediately.

27
28
29 STATEMENT

30
31 This bill authorizes certain joint insurance funds to invest in
32 certain bonds, notes, and other obligations of State and federal
33 agencies and to form joint cash management and investment
34 programs as a means to broaden the types of securities joint
35 insurance funds may invest in and to reduce the amount of assets
36 that must be held in short-term investments to cover the cash flow
37 needs of the funds.

38 Under current law, local unit joint insurance funds and board of
39 education joint insurance funds (commonly referred to as "JIFs")
40 are authorized to invest certain assets that are held in trust by the
41 funds. The law permits these JIFs to invest fund assets directly on
42 their own behalf or, alternatively, by transferring the assets to the
43 Division of Investment in the Department of the Treasury for
44 investment by the division on behalf of the funds.

45 The laws authorizing the investment of assets place certain
46 restrictions on the types of securities available for investment.
47 These restrictions limit the types of securities that JIFs may invest

1 in to more conservative, short-term instruments that protect the
2 principal of the investments at the expense of earnings.

3 This bill authorizes current law to allow JIFs to directly invest
4 assets held in trust by the funds in additional types of securities that
5 are less conservative and typically have longer investment horizons,
6 but have the potential to increase earnings on investments. Under
7 the bill, JIFs are authorized to invest fund assets in bonds, notes,
8 and other obligations issued by an agency or corporation of the
9 federal government or a governmental entity established under the
10 laws of this State.

11 In doing so, the bill imposes certain limits on the types of bonds,
12 notes, and other obligations that JIFs are authorized to invest in, and
13 prohibits the investment of assets in bonds, notes, and obligations
14 issued by certain entities. The bill provides that JIFs may invest in
15 bonds, notes, and other obligations issued by an agency or
16 corporation of the federal government or a governmental entity
17 established under the laws of this State so long as the agency,
18 corporation, or governmental entity responsible for the issuance is
19 not in default upon any of its outstanding obligations, and so long
20 as the bonds, notes, or other obligations are purchased at fair market
21 value, guaranteed as to interest and principal, and have a credit
22 rating of A3 or higher by Moody's Investor Services, Inc., A- or
23 higher by Standard & Poor's Corporation, and A- or higher by Fitch
24 Ratings.

25 In addition, the bill authorizes JIFs to amend their respective risk
26 management plans to participate in a joint cash management and
27 investment program with other JIFs that are similarly established.
28 The bill requires JIFs electing to participate in a joint cash
29 management and investment program to jointly file a cash
30 management plan for prior approval by the Commissioner of
31 Banking and Insurance and the Commissioner of Community
32 Affairs and to comply with all provisions of current law governing
33 the establishment of JIFs.

34 The bill also authorizes school districts and local units of
35 government to deposit public funds into multiple FDIC-insured
36 accounts.

37 Current law directs local governments to adopt cash management
38 plans and to invest funds pursuant to those plans. Similarly, school
39 districts are permitted to invest their funds in a variety of ways.
40 Current law does not expressly permit local governments or school
41 districts to deposit funds into multiple FDIC-insured accounts.
42 Pursuant to this bill, those deposits would be allowed.

43 Specifically, the bill provides that school districts and local units
44 of government may deposit funds in accordance with the following
45 conditions:

46 (1) the funds are initially invested through a public depository
47 designated by the school district or local unit;

S871 SWEENEY

14

- 1 (2) the designated public depository arranges for the deposit of
2 the funds in deposit accounts in one or more federally insured banks
3 or savings and loan associations, for the account of the school
4 district or local unit;
- 5 (3) 100 percent of the principal and accrued interest of each
6 deposit is insured by the Federal Deposit Insurance Corporation;
- 7 (d) the designated public depository acts as custodian for the
8 school district or local unit with respect to those deposits; and
- 9 (e) on the same date that the funds are deposited, the designated
10 public depository receives an amount of deposits from customers of
11 other financial institutions, wherever located, equal to the amount
12 of funds initially invested by the school district through the
13 designated public depository.
- 14 The bill is scheduled to take effect immediately upon enactment.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 871

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 5, 2018

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 871.

This bill, as amended, authorizes certain joint insurance funds to invest in certain bonds, notes, and other obligations of State and federal agencies and to form joint cash management and investment programs as a means to broaden the types of securities joint insurance funds may invest in and to reduce the amount of assets that must be held in short-term investments to cover the cash flow needs of the funds.

Under current law, local unit joint insurance funds and board of education joint insurance funds (commonly referred to as “JIFs”) are authorized to invest certain assets that are held in trust by the funds. The law permits these JIFs to invest fund assets directly on their own behalf or, alternatively, by transferring the assets to the Division of Investment in the Department of the Treasury for investment by the division on behalf of the funds.

The laws authorizing the investment of assets place certain restrictions on the types of securities available for investment. These restrictions limit the types of securities that JIFs may invest in to more conservative, short-term instruments that protect the principal of the investments at the expense of earnings.

This bill amends current law to allow JIFs to directly invest assets held in trust by the funds in additional types of securities that are less conservative and typically have longer investment horizons, but have the potential to increase earnings on investments. Under the bill, JIFs are authorized to invest fund assets in bonds, notes, and other obligations issued by an agency or corporation of the federal government or a governmental entity established under the laws of this State.

In doing so, the bill imposes certain limits on the types of bonds, notes, and other obligations that JIFs are authorized to invest in, and prohibits the investment of assets in bonds, notes, and obligations issued by certain entities. The bill provides that JIFs may invest in bonds, notes, and other obligations issued by an agency or corporation of the federal government or a governmental entity established under the laws of this State so long as the agency,

corporation, or governmental entity responsible for the issuance is not in default upon any of its outstanding obligations, and so long as the bonds, notes, or other obligations are purchased at fair market value, guaranteed as to interest and principal, and have a credit rating of A3 or higher by Moody's Investor Services, Inc., A- or higher by Standard & Poor's Corporation, and A- or higher by Fitch Ratings.

In addition, the bill authorizes JIFs to amend their respective risk management plans to participate in a joint cash management and investment program with other JIFs that are similarly established. The bill requires JIFs electing to participate in a joint cash management and investment program to jointly file a cash management plan for prior approval by the Commissioner of Banking and Insurance and the Commissioner of Community Affairs and to comply with all provisions of current law governing the establishment of JIFs.

The bill also authorizes school districts and local units of government to deposit public funds into multiple FDIC-insured accounts.

Current law directs local governments to adopt cash management plans and to invest funds pursuant to those plans. Similarly, school districts are permitted to invest their funds in a variety of ways. Current law does not expressly permit local governments or school districts to deposit funds into multiple FDIC-insured accounts. Pursuant to this bill, those deposits would be allowed.

Specifically, the bill provides that school districts and local units of government may deposit funds in accordance with the following conditions:

- (1) the funds are initially invested through a public depository designated by the school district or local unit;
- (2) the designated public depository arranges for the deposit of the funds in deposit accounts in one or more federally insured banks, savings and loan associations, or credit unions for the account of the school district or local unit;
- (3) 100 percent of the principal and accrued interest of each deposit is insured by the Federal Deposit Insurance Corporation;
- (4) the designated public depository acts as custodian for the school district or local unit with respect to those deposits; and
- (5) on the same date that the funds are deposited, the designated public depository receives an amount of deposits from customers of other financial institutions, wherever located, equal to the amount of funds initially invested by the school district through the designated public depository.

The bill is scheduled to take effect immediately upon enactment.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments clarify that federally-insured credit unions can be public depositories for purposes of this bill, in addition to banks and savings and loan associations. The committee amendments make this bill identical to Assembly Bill No. 3122 (2R).

ASSEMBLY BILL NO. 3122
(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 3122 (Second Reprint) with my recommendations for reconsideration.

Joint insurance funds ("JIFs") enable municipalities, counties, school districts and local agencies to pool resources to jointly purchase insurance or jointly self-fund against insurance liabilities. By broadening the risk pool, JIFs allow participating units to stabilize insurance rates and save on insurance costs. JIFs have also proven to be valuable investment tools for local units, as JIFs may invest their funds reserved for the payment of claims and expenses. Although JIFs may currently invest in New Jersey's counties, municipalities and other local entities, these investment opportunities are mostly limited to investments in short-term obligations.

This legislation would expand the securities in which a JIF may invest to include the long-term obligations of any federal government agency or corporation, or any government entity established under New Jersey law, subject to certain exceptions. The aim is to permit JIFs to invest in higher yielding instruments, while at the same time allowing them to participate in New Jersey's local long-term debt market. The bill has the potential to significantly increase the resources available for local infrastructure and other capital projects. Not surprisingly, dozens of municipalities and school districts throughout the State have expressed their strong support.

I commend the bill's sponsors for identifying creative measures to increase the rates of return on JIF investments and free up much needed capital for our counties, municipalities and

school districts. However, I am concerned that the bill does not contain sufficient protections to ensure safe and wise investment practices. Such safeguards are critical to protecting the long-term solvency of the JIFs, the local entities they insure, and ultimately, all of the State's taxpayers.

I am therefore recommending revisions requiring the Department of Community Affairs ("DCA"), in consultation with the Department of Banking and Insurance ("DOBI"), to limit the duration of the long-term investments and to cap these investments at an appropriate percentage of a JIF's overall investment portfolio. This will enable DCA and DOBI to set the parameters necessary to protect JIFs from the volatility inherent in longer-maturity obligations, while still permitting them to invest in longer-term infrastructure and capital projects, including roads, bridges and water and sewer infrastructure. I am also recommending revisions to ensure that the long-term investments authorized in the bill are limited to those entities that have achieved upper level credit ratings by the major credit ratings agencies to further minimize risk.

I am confident that these and other recommended changes will preserve the bill's laudable goals while also protecting the JIFs and the counties, towns, school districts and other local entities they insure.

Therefore, I herewith return Assembly Bill No. 3122 (Second Reprint) and recommend that it be amended as follows:

Page 3, Section 1, Line 1: Delete in its entirety and insert "further provided that the commissioner of the Department of Community Affairs, in consultation with the commissioner of the Department of Banking and Insurance, shall promulgate rules and regulations to limit the duration of the long-term investments and to cap these investments at an appropriate

percentage of a joint insurance fund's overall investment portfolio."

- Page 3, Section 1, Line 3: Delete "one" and insert "two"
- Page 3, Section 1, Line 6: After "sentence" insert "and if the bond offering has the unconditional guarantee of the agency, corporation, or governmental entity responsible for the issuance"
- Page 6, Section 3, Line 9: Delete "and one of the three ratings is"
- Page 6, Section 3, Line 10: Delete "sufficient if only one rating is available" and insert "and further provided that the commissioner of the Department of Community Affairs, in consultation with the commissioner of the Department of Banking and Insurance, shall promulgate rules and regulations to limit the duration of the long-term investments and to cap these investments at an appropriate percentage of a joint insurance fund's overall investment portfolio"
- Page 6, Section 3, Line 11: Delete "one" and insert "two"
- Page 6, Section 3, Line 15: After "sentence" insert "and if the bond offering has the unconditional guarantee of the agency, corporation, or governmental entity responsible for the issuance"
- Page 8, Section 5, Line 32: After "banks" insert ", savings banks"
- Page 12, Section 6, Line 46: After "Corporation" insert "or the National Credit Union Share Insurance Fund"
- Page 13, Section 7, Line 13: Delete "immediately." and insert "six months following enactment. Notwithstanding the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C.52:14B-1 et seq.), to the contrary, the commissioner of the Department of Community Affairs, in consultation with the commissioner of the Department of Banking and Insurance, shall promulgate rules and regulations to limit the duration of the long-term investments and to cap these investments at an appropriate percentage of a joint insurance fund's overall investment portfolio; such rules and regulations shall be effective immediately upon filing with the Office of Administrative Law, which rules and regulations shall

be effective for a period not to exceed 360 days following the effective date of this Act and may thereafter be amended, adopted, or readopted by the commissioner of the Department of Community Affairs, in consultation with the commissioner of the Department of Banking and Insurance, in accordance with the requirements of P.L. 1968, c. 410 (C.52:14B-1 et seq.). The commissioner of the Department of Community Affairs, in consultation with the commissioner of the Department of Banking and Insurance, may promulgate such other rules and regulations as are necessary to effectuate the purposes of this Act."

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor



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Newark, N.J.

Governor Phil Murphy Takes Action on Legislation

06/15/2018

TRENTON - Yesterday, Governor Murphy signed the following bill into law:

A-3122wGR/S-871 (Burzichelli, Murphy, Mazzeo/Sweeney) - Allows certain joint insurance funds to make certain investments and to form certain investment programs; authorizes school districts and local units of government to deposit public funds into multiple federally-insured accounts.

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