CHAPTER 118A

DEPOSIT AND INVESTMENT OF LOCAL PUBLIC FUNDS

118A.01 DEFINITIONS.
118A.02 DEPOSITORIES; INVESTING: SALES, PROCEEDS, IMMUNITY.
118A.03 WHEN AND WHAT COLLATERAL REQUIRED.
118A.04 INVESTMENTS.
118A.05 CONTRACTS AND AGREEMENTS.
118A.06 SAFEKEEPING; ACKNOWLEDGEMENTS.
118A.07 ADDITIONAL INVESTMENT AUTHORITY.
118A.08 NO SUPERSEDING EFFECT.
118A.09 ADDITIONAL LONG-TERM EQUITY INVESTMENT AUTHORITY.
118A.10 SELF-INSURANCE POOLS; ADDITIONAL INVESTMENT AUTHORITY.

118A.01 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to sections 118A.01 to 118A.06.

Subd. 2. **Government entity.** (a) "Government entity" means a county, city, town, school district, hospital district, public authority, public corporation, public commission, special district, any other political subdivision, except an entity whose investment authority is specified under chapter 11A or 356A.

(b) For the purposes of sections 118A.02 and 118A.03 only, the term includes an American Indian tribal government entity located within a federally recognized American Indian reservation.

Subd. 3. **Financial institution.** "Financial institution" means a savings association, commercial bank, trust company, credit union, or industrial loan and thrift company.

Subd. 4. **Public funds.** "Public funds" means all general, special, permanent, trust, and other funds, regardless of source or purpose, held or administered by a government entity, unless otherwise restricted.

History: *1996 c 399 art 1 s 2; 1999 c 151 s 39*

118A.02 DEPOSITORIES; INVESTING: SALES, PROCEEDS, IMMUNITY.

Subdivision 1. **Designation; delegation.** (a) The governing body of each government entity shall designate, as a depository of its funds, one or more financial institutions.

(b) The governing body may authorize the treasurer or chief financial officer to:

(1) designate depositories of the funds;

(2) make investments of funds under sections 118A.01 to 118A.06 or other applicable law; or

(3) both designate depositories and make investments as provided in this subdivision.

Subd. 2. **Sale; proceeds; immunity, if loss.** (a) The treasurer or chief financial officer of a government entity may at any time sell obligations purchased pursuant to this section and the money received from such sale, and the interest and profits or loss on such investment shall be credited or charged, as the case may be, to the fund from which the investment was made.

(b) Neither such official nor government entity, nor any other official responsible for the custody of such funds, shall be personally liable for any loss sustained from the deposit or investment of funds in accordance with the provisions of sections 118A.04 and 118A.05.

History: *1996 c 399 art 1 s 3*

118A.03 WHEN AND WHAT COLLATERAL REQUIRED.

Subdivision 1. **For deposits beyond insurance.** To the extent that funds on deposit at the close of the financial institution's banking day exceed available federal deposit insurance, the government entity shall require the financial institution to furnish collateral security or a corporate surety bond executed by a company authorized to do business in the state. For the purposes of this section, "banking day" has the meaning given in Federal Reserve Board Regulation CC, Code of Federal Regulations, title 12, section 229.2(f), and incorporates a financial institution's cutoff hour established under section 336.4-108.

Subd. 2. **In lieu of surety bond.** The following are the allowable forms of collateral in lieu of a corporate surety bond:

(1) United States government Treasury bills, Treasury notes, Treasury bonds;

(2) issues of United States government agencies and instrumentalities as quoted by a recognized industry quotation service available to the government entity;

(3) general obligation securities of any state or local government with taxing powers which is rated "A" or better by a national bond rating service, or revenue obligation securities of any state or local government with taxing powers which is rated "AA" or better by a national bond rating service;

(4) general obligation securities of a local government with taxing powers may be pledged as collateral against funds deposited by that same local government entity;

(5) irrevocable standby letters of credit issued by Federal Home Loan Banks to a municipality accompanied by written evidence that the bank's public debt is rated "AA" or better by Moody's Investors Service, Inc., or Standard & Poor's Corporation; and

(6) time deposits that are fully insured by any federal agency.

Subd. 3. **Amount.** The total amount of the collateral computed at its market value shall be at least ten percent more than the amount on deposit at the close of the financial institution's banking day, except that where the collateral is irrevocable standby letters of credit issued by Federal Home Loan Banks, the amount of collateral shall be at least equal to the amount on deposit at the close of the financial institution's banking day. The financial institution may furnish both a surety bond and collateral aggregating the required amount.

Subd. 4. **Assignment.** Any collateral pledged shall be accompanied by a written assignment to the government entity from the financial institution. The written assignment shall recite that, upon default, the financial institution shall release to the government entity on demand, free of exchange or any other charges, the collateral pledged. Interest earned on assigned collateral will be remitted to the financial institution so long as it is not in default. The government entity may sell the collateral to recover the amount due. Any surplus from the sale of the collateral shall be payable to the financial institution, its assigns, or both.

Subd. 5. **Withdrawal of excess collateral.** A financial institution may withdraw excess collateral or substitute other collateral after giving written notice to the government entity and receiving confirmation. The authority to return any delivered and assigned collateral rests with the government entity.

Subd. 6. **Default.** For purposes of this section, default on the part of the financial institution includes, but is not limited to, failure to make interest payments when due, failure to promptly deliver upon demand all money on deposit, less any early withdrawal penalty that may be required in connection with the withdrawal of a time deposit, or closure of the depository. If a financial institution closes, all deposits shall be immediately

due and payable. It shall not be a default under this subdivision to require prior notice of withdrawal if such notice is required as a condition of withdrawal by applicable federal law or regulation.

Subd. 7. **Safekeeping.** All collateral shall be placed in safekeeping in a restricted account at a Federal Reserve bank, or in an account at a trust department of a commercial bank or other financial institution that is not owned or controlled by the financial institution furnishing the collateral. The selection shall be approved by the government entity.

History: *1996 c 399 art 1 s 4; 2003 c 51 s 15,16; 2004 c 151 s 1,2; 2004 c 174 s 2; 2007 c 44 s 7; 2007 c 57 art 3 s 39; 2008 c 154 art 10 s 1; 2014 c 292 s 1*

118A.04 INVESTMENTS.

Subdivision 1. **What may be invested.** Any public funds, not presently needed for other purposes or restricted for other purposes, may be invested in the manner and subject to the conditions provided for in this section.

Subd. 2. **United States securities.** Public funds may be invested in governmental bonds, notes, bills, mortgages (excluding high-risk mortgage-backed securities), and other securities, which are direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress.

Subd. 3. **State and local securities.** Funds may be invested in the following:

(1) any security which is a general obligation of any state or local government with taxing powers which is rated "A" or better by a national bond rating service;

(2) any security which is a revenue obligation of any state or local government which is rated "AA" or better by a national bond rating service;

(3) a general obligation of the Minnesota housing finance agency which is a moral obligation of the state of Minnesota and is rated "A" or better by a national bond rating agency; and

(4) any security which is an obligation of a school district with an original maturity not exceeding 13 months and (i) rated in the highest category by a national bond rating service or (ii) enrolled in the credit enhancement program pursuant to section 126C.55.

Subd. 4. **Commercial papers.** Funds may be invested in commercial paper issued by United States corporations or their Canadian subsidiaries that is rated in the highest quality category by at least two nationally recognized rating agencies and matures in 270 days or less.

Subd. 5. **Time deposits.** Funds may be invested in time deposits that are fully insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or bankers acceptances of United States banks.

Subd. 6. **High-risk mortgage-backed securities.** For the purposes of this section and section 118A.05, "high-risk mortgage-backed securities" are:

(1) interest-only or principal-only mortgage-backed securities; and

(2) any mortgage derivative security that:

(i) has an expected average life greater than ten years;

(ii) has an expected average life that:

(A) will extend by more than four years as the result of an immediate and sustained parallel shift in the yield curve of plus 300 basis points; or

(B) will shorten by more than six years as the result of an immediate and sustained parallel shift in the yield curve of minus 300 basis points; or

(iii) will have an estimated change in price of more than 17 percent as the result of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

Subd. 7. **Temporary general obligation bonds.** Funds may be invested in general obligation temporary bonds of the same government entity issued under section 429.091, subdivision 7, 469.178, subdivision 5, or 475.61, subdivision 6.

Subd. 8. **Debt service funds.** Funds held in a debt service fund may be used to purchase any obligation, whether general or special, of an issue which is payable from the fund, at such price, which may include a premium, as shall be agreed to by the holder, or may be used to redeem any obligation of such an issue prior to maturity in accordance with its terms. The securities representing any such investment may be sold by the government entity at any time, but the money so received remains part of the fund until used for the purpose for which the fund was created. Any obligation held in a debt service fund from which it is payable may be canceled at any time unless otherwise provided in a resolution or other instrument securing obligations payable from the fund.

Subd. 9. **Broker; statement and receipt.** (a) For the purpose of this section and section 118A.05, the term "broker" means a broker-dealer, broker, or agent of a government entity, who transfers, purchases, sells, or obtains securities for, or on behalf of, a government entity.

(b) Prior to completing an initial transaction with a broker, a government entity shall provide annually to the broker a written statement of investment restrictions which shall include a provision that all future investments are to be made in accordance with Minnesota Statutes governing the investment of public funds.

(c) A broker must acknowledge annually receipt of the statement of investment restrictions in writing and agree to handle the government entity's account in accordance with these restrictions. A government entity may not enter into a transaction with a broker until the broker has provided this written agreement to the government entity.

(d) The state auditor shall prepare uniform notification forms which shall be used by the government entities and the brokers to meet the requirements of this subdivision.

History: *1996 c 399 art 1 s 5; 2013 c 143 art 12 s 1; 2014 c 292 s 2,3; 2023 c 64 art 12 s 1*

118A.05 CONTRACTS AND AGREEMENTS.

Subdivision 1. **May enter into.** In addition to other authority granted in sections 118A.01 to 118A.06, government entities may enter into contracts and agreements as follows.

Subd. 2. **Repurchase agreements.** Repurchase agreements consisting of collateral allowable in section 118A.04, and reverse repurchase agreements may be entered into with any of the following entities:

(1) a financial institution qualified as a "depository" of public funds of the government entity;

(2) any other financial institution which is a member of the Federal Reserve System and whose combined capital and surplus equals or exceeds $10,000,000;

(3) a primary reporting dealer in United States government securities to the Federal Reserve Bank of New York; or

(4) a securities broker-dealer licensed pursuant to chapter 80A, or an affiliate of it, regulated by the Securities and Exchange Commission and maintaining a combined capital and surplus of $40,000,000 or more, exclusive of subordinated debt.

Reverse agreements may only be entered into for a period of 90 days or less and only to meet short-term cash flow needs. In no event may reverse repurchase agreements be entered into for the purpose of generating cash for investments, except as stated in subdivision 3.

Subd. 3. **Securities lending agreements.** Securities lending agreements, including custody agreements, may be entered into with a financial institution meeting the qualifications of subdivision 2, clause (1) or (2), and having an office located in Minnesota. Securities lending transactions may be entered into with entities meeting the qualifications of subdivision 2 and the collateral for such transactions shall be restricted to the securities described in this section and section 118A.04.

Subd. 4. **Minnesota joint powers investment trust.** Government entities may enter into agreements or contracts for:

(1) shares of a Minnesota joint powers investment trust whose investments are restricted to securities described in this section, section 118A.04, and section 118A.07, subdivision 7;

(2) units of a short-term investment fund established and administered pursuant to regulation 9 of the Office of the Comptroller of the Currency, in which investments are restricted to securities described in this section and section 118A.04;

(3) shares of an investment company which is registered under the Federal Investment Company Act of 1940 and which holds itself out as a money market fund meeting the conditions of rule 2a-7 of the Securities and Exchange Commission and is rated in one of the two highest rating categories for money market funds by at least one nationally recognized statistical rating organization; or

(4) shares of an investment company which is registered under the Federal Investment Company Act of 1940, and whose shares are registered under the Federal Securities Act of 1933, as long as the investment company's fund receives the highest credit rating and is rated in one of the two highest risk rating categories by at least one nationally recognized statistical rating organization and is invested in financial instruments with a final maturity no longer than 13 months.

Subd. 5. **Guaranteed investment contracts.** Agreements or contracts for guaranteed investment contracts may be entered into if they are issued or guaranteed by United States commercial banks, domestic branches of foreign banks, United States insurance companies, or their Canadian subsidiaries, or the domestic affiliates of any of the foregoing. The credit quality of the issuer's or guarantor's short- and long-term unsecured debt must be rated in one of the two highest categories by a nationally recognized rating agency. Agreements or contracts for guaranteed investment contracts with a term of 18 months or less may be entered into regardless of the credit quality of the issuer's or guarantor's long-term unsecured debt, provided that the credit quality of the issuer's short-term unsecured debt is rated in the highest category by a nationally recognized rating

agency. Should the issuer's or guarantor's credit quality be downgraded below "A", the government entity must have withdrawal rights.

History: *1996 c 399 art 1 s 6; 1997 c 219 s 1; 2000 c 493 s 1; 2005 c 152 art 1 s 2; 2010 c 234 s 1; 2010 c 385 s 4; 2013 c 143 art 12 s 2; 2014 c 292 s 4*

118A.06 SAFEKEEPING; ACKNOWLEDGEMENTS.

(a) Investments, contracts, and agreements may be held in safekeeping with:

(1) any Federal Reserve bank;

(2) any bank authorized under the laws of the United States or any state to exercise corporate trust powers, including, but not limited to, the bank from which the investment is purchased;

(3) a primary reporting dealer in United States government securities to the Federal Reserve Bank of New York; or

(4) a securities broker-dealer, or an affiliate of it, that meets the following requirements:

(i) it is registered as a broker-dealer under chapter 80A or is exempt from the registration requirements;

(ii) it is regulated by the Securities and Exchange Commission; and

(iii) it maintains insurance through the Securities Investor Protection Corporation or excess insurance coverage in an amount equal to or greater than the value of the securities held.

(b) The government entity's ownership of all securities under paragraph (a) must be evidenced by written acknowledgments identifying the securities by the names of the issuers, maturity dates, interest rates, CUSIP number, or other distinguishing marks.

History: *1996 c 399 art 1 s 7; 2010 c 234 s 2*

118A.07 ADDITIONAL INVESTMENT AUTHORITY.

Subdivision 1. **Authority provided.** As used in this section, "governmental entity" means a city with a population in excess of 200,000, a county that contains a city of that size, or the Metropolitan Council. If a governmental entity meets the requirements of subdivisions 2 and 3, it may exercise additional investment authority under subdivisions 4, 5, and 6.

Subd. 2. **Written policies and procedures.** Prior to exercising any additional authority under subdivisions 4, 5, and 6, the governmental entity must have written investment policies and procedures governing the following:

(1) the use of or limitation on mutual bond funds or other securities authorized or permitted investments under law;

(2) specifications for and limitations on the use of derivatives;

(3) the final maturity of any individual security;

(4) the maximum average weighted life of the portfolio;

(5) the use of and limitations on reverse repurchase agreements;

(6) credit standards for financial institutions with which the governmental entity deals; and

(7) credit standards for investments made by the governmental entity.

Subd. 3. **Oversight process.** Prior to exercising any authority under subdivisions 4, 5, and 6, the governmental entity must establish an oversight process that provides for review of the governmental entity's investment strategy and the composition of the financial portfolio. This process shall include one or more of the following:

(1) audit reviews;

(2) internal or external investment committee reviews; and

(3) internal management control.

Additionally, the governing body of the governmental entity must, by resolution, authorize its treasurer to utilize the additional authorities under this section within their prescribed limits, and in conformance with the written limitations, policies, and procedures of the governmental entity.

If the governing body of a governmental entity exercises the authority provided in this section, the treasurer of the governmental entity must annually report to the governing body on the findings of the oversight process required under this subdivision. If the governing body intends to continue to exercise the authority provided in this section for the following calendar year, it must adopt a resolution affirming that intention by December 1.

Subd. 4. **Repurchase agreements.** A governmental entity may enter into repurchase agreements as authorized under section 118A.05, provided that the exclusion of mortgage-backed securities defined as "high-risk mortgage-backed securities" under section 118A.04, subdivision 6, shall not apply to repurchase agreements under this authority if the margin requirement is 101 percent or more.

Subd. 5. **Reverse repurchase agreements.** Notwithstanding the limitations contained in section 118A.05, subdivision 2, the governmental entity may enter into reverse repurchase agreements to:

(1) meet cash flow needs; or

(2) generate cash for investments, provided that the total securities owned shall be limited to an amount not to exceed 130 percent of the annual daily average of general investable monies for the fiscal year as disclosed in the most recently available audited financial report. Excluded from this limit are:

(i) securities with maturities of one year or less; and

(ii) securities that have been reversed to maturity.

There shall be no limit on the term of a reverse repurchase agreement. Reverse repurchase agreements shall not be included in computing the net debt of the governmental entity, and may be made without an election or public sale, and the interest payable thereon shall not be subject to the limitation in section 475.55. The interest shall not be deducted or excluded from gross income of the recipient for the purpose of state income, corporate franchise, or bank excise taxes, or if so provided by federal law, for the purpose of federal income tax.

Subd. 6. **Options and futures.** A governmental entity may enter into futures contracts, options on futures contracts, and option agreements to buy or sell securities authorized under law as legal investments for governmental entities, but only with respect to securities owned by the governmental entity, including securities that are the subject of reverse repurchase agreements under this section that expire at or before the due date of the option agreement.

Subd. 7. **Negotiable certificates of deposit.** A Minnesota joint powers investment trust may invest funds in negotiable certificates of deposit or other evidences of deposit, with a remaining maturity of three years or less, issued by a nationally or state-chartered bank, a federal or state savings and loan association, or a state-licensed branch of a foreign bank, except that for obligations with a maturity of one year or less, the debt obligations of the issuing institution or its parent are rated in the top short-term rating category by at least two nationally recognized statistical ratings organizations and for obligations with a maturity in excess of one year, the senior debt obligations of the issuing institution or its parent are rated at least A or its equivalent by at least two nationally recognized statistical ratings organizations. Investments in these instruments shall not be subject to the collateralization requirements of section 118A.03.

History: *1996 c 399 art 1 s 8; 2014 c 292 s 5*

118A.08 NO SUPERSEDING EFFECT.

Except as provided in Laws 1996, chapter 399, article 1, section 11, sections 118A.01 to 118A.06 shall not supersede any general or special law relating to the deposit and investment of public funds.

History: *1996 c 399 art 1 s 9*

118A.09 ADDITIONAL LONG-TERM EQUITY INVESTMENT AUTHORITY.

Subdivision 1. **Definition; qualifying government.** (a) "Qualifying government" means:

(1) a county or statutory or home rule charter city with a population of more than 100,000; or

(2) a county or statutory or home rule charter city whose most recent long-term, senior, general obligation rating by one or more national rating organizations in the prior 18-month period is AA or higher.

(b) A county or statutory or home rule charter city with a population of 100,000 or less that is a qualifying government, but subsequently does not meet the threshold under paragraph (a), clause (2), may not invest additional funds under this section during any time period when it does not meet the threshold, but may continue to manage funds previously invested under subdivision 2.

Subd. 2. **Additional investment authority.** Qualifying governments may invest the amount described in subdivision 3:

(1) in index mutual funds based in the United States and indexed to a broad market United States equity index, on the condition that index mutual fund investments must be made directly with the main sales office of the fund; or

(2) with the Minnesota State Board of Investment subject to such terms and minimum amounts as may be adopted by the board.

Subd. 3. **Funds.** (a) Qualifying governments may only invest under subdivision 2 according to the limitations in this subdivision. A qualifying government under subdivision 1, clause (1) or (2), may only invest its funds that are held for long-term capital plans authorized by the city council or county board, or long-term obligations of the qualifying government. Long-term obligations of the qualifying government include long-term capital plan reserves, funds held to offset long-term environmental exposure, other postemployment benefit liabilities, compensated absences, and other long-term obligations established by applicable accounting standards.

(b) Qualifying governments under subdivision 1, clause (1) or (2), may invest up to 15 percent of the sum of:

(1) unassigned cash;

(2) cash equivalents;

(3) deposits; and

(4) investments.

(c) The calculation in paragraph (b) must be based on the qualifying government's most recent audited statement of net position, which must be compliant and audited pursuant to governmental accounting and auditing standards. Once the amount invested reaches 15 percent of the sum of unassigned cash, cash equivalents, deposits, and investments, no further funds may be invested under this section; however, a qualifying government may continue to manage the funds previously invested under this section even if the total amount subsequently exceeds 15 percent of the sum of unassigned cash, cash equivalents, deposits, and investments.

Subd. 4. **Approval.** Before investing pursuant to this section, the governing body of the qualifying government must adopt a resolution that includes the following statements:

(1) the governing body understands that investments under subdivision 2 have a risk of loss;

(2) the governing body understands the type of funds that are being invested and the specific investment itself; and

(3) the governing body certifies that all funds designated for investment through the State Board of Investment meet the requirements of this section and the policies and procedures established by the State Board of Investment.

Subd. 5. **Public Employees Retirement Association to act as account administrator.** A qualifying government exercising authority under this section to invest amounts with the State Board of Investment shall establish an account with the Public Employees Retirement Association (PERA), which shall act as the account administrator.

Subd. 6. **Purpose of account.** The account established under subdivision 5 may only be used for the purposes provided under subdivision 3. PERA may rely on representations made by the qualifying government in exercising its duties as account administrator and has no duty to further verify qualifications, use, or intended use of the funds that are invested or withdrawn.

Subd. 7. **Account maintenance.** (a) A qualifying government may establish an account to be held under the supervision of PERA for the purposes of investing funds with the State Board of Investment under subdivision 2. PERA shall establish a separate account for each qualifying government. PERA may charge participating qualifying governments a fee for reasonable administrative costs. The amount of any fee charged by PERA is annually appropriated to the association from the account. PERA may establish other reasonable terms and conditions for creation and maintenance of these accounts.

(b) PERA must report to the qualifying government on the investment returns of invested funds and on all investment fees or costs incurred by the account.

Subd. 8. **Investment.** (a) The assets of an account shall be invested and held as required by this subdivision.

(b) PERA must certify all money in the accounts for which it is account administrator to the State Board of Investment for investment under section 11A.14, subject to the policies and procedures established by

the State Board of Investment. Investment earnings must be credited to the account of the individual qualifying government.

(c) For accounts invested by the State Board of Investment, the investment restrictions shall be the same as those generally applicable to the State Board of Investment.

(d) A qualifying government may provide investment direction to PERA, subject to the policies and procedures established by the State Board of Investment.

Subd. 9. **Withdrawal of funds and termination of account.** (a) A government may withdraw some or all of its money or terminate the account.

(b) A government requesting withdrawal of money from an account created under this section must do so at a time and in the manner required by the executive director of PERA, subject to the policies and procedures established by the State Board of Investment.

History: *1Sp2017 c 4 art 2 s 27; 2023 c 62 art 3 s 2-4*

118A.10 SELF-INSURANCE POOLS; ADDITIONAL INVESTMENT AUTHORITY.

Subdivision 1. **Definition.** For the purposes of this section, "qualifying government" means a self-insurance pool listed in section 471.982, subdivision 3.

Subd. 2. **Additional investment authority.** (a) A qualifying government may invest in the securities specified in section 11A.24, with the exception of specific investments authorized under section 11A.24, subdivision 6, paragraph (a), clauses (1) to (5).

(b) Investments authorized under this section are subject to the limitations under section 11A.24.

(c) A qualifying government may invest with the State Board of Investment subject to the terms and minimum amounts adopted by the State Board of Investment.

Subd. 3. **Approval.** Before investing pursuant to this section, the governing body of a qualifying government must adopt an investment policy pursuant to a resolution that includes both of the following statements:

(1) the governing body understands that investments under this section have a risk of loss; and

(2) the governing body understands the type of funds that are being invested and the specific investment itself.

History: *2023 c 62 art 3 s 5*