

SENATE BILL No. 1299

May 30, 2000, Introduced by Senators GOUGEON, MC MANUS, STILLE, NORTH,
DE BEAUSSAERT, HAMMERSTROM, VAN REGENMORTER and GAST and
referred to the Committee on Appropriations.

A bill to amend 1855 PA 105, entitled

"An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies,"

by amending sections 2c, 3, and 7 (MCL 21.142c, 21.143, and 21.147), section 2c as added by 1990 PA 360 and sections 3 and 7 as amended by 1997 PA 32, and by adding section 2d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2c. (1) The state treasurer may invest surplus funds
2 under the control of the state treasurer in undivided participat-
3 ing interests in loans the principal of which is in whole or in
4 part guaranteed or otherwise considered an evidence of
5 indebtedness of the United States government or its agencies, to

1 the extent the investment in an undivided participating interest
2 in loans does not exceed that portion of the loan amount guaran-
3 teed or otherwise considered an evidence of indebtedness of the
4 United States government or its agencies.

5 (2) An investment made under this section is found and
6 declared to be for a valid public purpose.

7 (3) Earnings from an investment made pursuant to this sec-
8 tion in excess of the average rate of interest earned during the
9 same period on other surplus funds, other than surplus funds
10 invested pursuant to section 1, 2, 2a, ~~or~~ 2b, OR 2C, shall be
11 credited to the general fund of the state. If interest from an
12 investment made pursuant to this section is below the average
13 rate of interest earned during the same period on other surplus
14 funds, other than surplus funds invested pursuant to section 1,
15 2, 2a, ~~or~~ 2b, OR 2C, the general fund shall be reduced by the
16 amount of the deficiency on an amortized basis over the remaining
17 term of the investment. A loss of principal from an investment
18 made pursuant to this section shall reduce the earnings on the
19 general fund by the amount of that loss on an amortized basis
20 over the remaining term of the investment.

21 (4) Investments made pursuant to this section shall not be
22 outstanding at any 1 time in an amount in excess of
23 \$100,000,000.00.

24 SEC. 2D. (1) THE STATE TREASURER MAY INVEST SURPLUS FUNDS
25 UNDER THE STATE TREASURER'S CONTROL IN CERTIFICATES OF DEPOSIT OR
26 OTHER INSTRUMENTS OF A FINANCIAL INSTITUTION QUALIFIED UNDER THIS
27 ACT TO RECEIVE DEPOSITS OR INVESTMENTS OF SURPLUS FUNDS FOR THE

1 PURPOSE OF FACILITATING MARINA DREDGING LOANS. THE STATE
2 TREASURER MAY ENTER INTO AN INVESTMENT AGREEMENT WITH A FINANCIAL
3 INSTITUTION TO PROVIDE FOR MARINA DREDGING LOANS. IN ADDITION TO
4 TERMS THAT MAY BE PRESCRIBED IN THE INVESTMENT AGREEMENT BY THE
5 STATE TREASURER, AN INVESTMENT UNDER THIS SECTION SHALL BE
6 SUBJECT TO ALL OF THE FOLLOWING CONDITIONS AND RESTRICTIONS:

7 (A) THE INTEREST ACCRUING ON THE INVESTMENT SHALL NOT BE
8 MORE THAN THE INTEREST EARNED BY THE FINANCIAL INSTITUTION ON
9 MARINA DREDGING LOANS MADE AFTER THE DATE OF THE INVESTMENT.

10 (B) THE FINANCIAL INSTITUTION SHALL PROVIDE GOOD AND AMPLE
11 SECURITY AS THE STATE TREASURER REQUIRES AND SHALL IDENTIFY THE
12 MARINA DREDGING LOANS AND THE TERMS AND CONDITIONS OF THOSE LOANS
13 THAT ARE MADE AFTER THE DATE OF THE INVESTMENT THAT ARE ATTRIBUT-
14 ABLE TO THAT INVESTMENT TOGETHER WITH OTHER INFORMATION REQUIRED
15 BY THIS ACT.

16 (C) AS ESTABLISHED IN THE INVESTMENT AGREEMENT BY THE STATE
17 TREASURER, A MARINA DREDGING LOAN SHALL BE MADE AT A RATE OR
18 RATES OF INTEREST, IF ANY.

19 (D) TO THE EXTENT THE FINANCIAL INSTITUTION HAS NOT MADE
20 MARINA DREDGING LOANS IN AN AMOUNT AT LEAST EQUAL TO THE AMOUNT
21 OF THE INVESTMENT WITHIN 90 DAYS AFTER THE INVESTMENT, THE RATE
22 OF INTEREST PAYABLE ON THAT PORTION OF THE OUTSTANDING INVESTMENT
23 SHALL BE INCREASED TO A RATE OF INTEREST PROVIDED IN THE INVEST-
24 MENT AGREEMENT, WITH THE INCREASE IN THE RATE OF INTEREST APPLIED
25 RETROACTIVELY TO THE DATE ON WHICH THE STATE TREASURER INVESTED
26 THE SURPLUS FUNDS.

1 (E) THE INVESTMENT AGREEMENT SHALL PROVIDE THAT FOR MARINA
2 DREDGING LOANS THE FINANCIAL INSTITUTION DOES NOT HAVE TO REPAY
3 ANY PRINCIPAL WITHIN THE FIRST 3 YEARS AFTER WHICH THE INVESTMENT
4 IS MADE UNLESS THE INVESTMENT IS NO LONGER BEING USED TO MAKE A
5 MARINA DREDGING LOAN, OR TO THE EXTENT THE MARINA DREDGING LOAN
6 HAS BEEN REPAID.

7 (F) THE INVESTMENT AGREEMENT MAY INCLUDE INCENTIVES FOR THE
8 EARLY REPAYMENT OF THE INVESTMENT AND FOR THE ACCELERATION OF
9 PAYMENTS IN THE EVENT OF A STATE CASH SHORTFALL AS PRESCRIBED BY
10 THE INVESTMENT AGREEMENT.

11 (2) AN INVESTMENT MADE UNDER THIS SECTION IS FOUND AND
12 DECLARED TO BE FOR A VALID PUBLIC PURPOSE.

13 (3) THE ATTORNEY GENERAL SHALL APPROVE DOCUMENTATION FOR AN
14 INVESTMENT PURSUANT TO THIS SECTION AS TO LEGAL FORM.

15 (4) THE AGGREGATE AMOUNT OF INVESTMENTS MADE PURSUANT TO
16 THIS SECTION SHALL NOT EXCEED \$30,000,000.00.

17 (5) EARNINGS FROM AN INVESTMENT MADE PURSUANT TO THIS SEC-
18 TION THAT ARE IN EXCESS OF THE AVERAGE RATE OF INTEREST EARNED
19 DURING THE SAME PERIOD ON OTHER SURPLUS FUNDS, OTHER THAN SURPLUS
20 FUNDS INVESTED PURSUANT TO SECTION 1 OR 2, SHALL BE CREDITED TO
21 THE GENERAL FUND OF THE STATE. IF INTEREST FROM AN INVESTMENT
22 MADE PURSUANT TO THIS SECTION IS BELOW THE AVERAGE RATE OF INTER-
23 EST EARNED DURING THE SAME PERIOD ON OTHER SURPLUS FUNDS, OTHER
24 THAN SURPLUS FUNDS INVESTED PURSUANT TO SECTION 1 OR 2, THE GEN-
25 ERAL FUND SHALL BE REDUCED BY THE AMOUNT OF THE DEFICIENCY ON AN
26 AMORTIZED BASIS OVER THE REMAINING TERM OF THE INVESTMENT. A
27 LOSS OF PRINCIPAL FROM AN INVESTMENT MADE PURSUANT TO THIS

1 SECTION SHALL REDUCE THE EARNINGS OF THE GENERAL FUND BY THE
2 AMOUNT OF THAT LOSS ON AN AMORTIZED BASIS OVER THE REMAINING TERM
3 OF THE INVESTMENT.

4 (6) A MARINA DREDGING LOAN MADE BY A FINANCIAL INSTITUTION
5 FROM INVESTMENTS UNDER THIS SECTION SHALL NOT EXCEED \$75,000.00.

6 (7) THE STATE TREASURER MAY TAKE ANY NECESSARY ACTION TO
7 ENSURE THE SUCCESSFUL OPERATION OF THIS SECTION, INCLUDING MAKING
8 INVESTMENTS WITH FINANCIAL INSTITUTIONS TO COVER THE ADMINISTRA-
9 TIVE AND RISK-RELATED COSTS ASSOCIATED WITH A MARINA DREDGING
10 LOAN.

11 (8) THE COMMISSIONER SHALL MONITOR THE COMPLIANCE OF A
12 FINANCIAL INSTITUTION IN WHICH THE STATE TREASURER HAS MADE AN
13 INVESTMENT PURSUANT TO THIS SECTION WITH THE TERMS OF THE INVEST-
14 MENT AGREEMENT AND THIS ACT. FOR EACH INVESTMENT, THE COMMIS-
15 SIONER SHALL CERTIFY THE EXTENT OF COMPLIANCE WITH SUBSECTION
16 (1)(B) FOR THE PURPOSE OF SUBSECTION (1)(D) AND SHALL PERIODI-
17 CALLY REPORT THOSE AND OTHER FINDINGS TO THE STATE TREASURER.

18 (9) THE STATE TREASURER SHALL ANNUALLY PREPARE AND SUBMIT
19 REPORTS TO THE LEGISLATURE REGARDING THE DISPOSITION OF MONEY
20 INVESTED FOR PURPOSES OF MARINA DREDGING LOANS UNDER THIS
21 SECTION. THE REPORTS FOR EACH TYPE OF LOAN SHALL INCLUDE ALL OF
22 THE FOLLOWING INFORMATION:

23 (A) THE TOTAL NUMBER OF MARINA OWNERS WHO HAVE RECEIVED SUCH
24 A LOAN.

25 (B) BY COUNTY, THE TOTAL NUMBER AND AMOUNTS OF THE LOANS.

1 (C) THE NAME OF EACH FINANCIAL INSTITUTION PARTICIPATING IN
2 THE LOAN PROGRAM AND THE AMOUNT INVESTED IN EACH FINANCIAL
3 INSTITUTION FOR PURPOSES OF SUCH LOAN PROGRAM.

4 (D) THE INFORMATION REPORTED TO THE STATE TREASURER BY THE
5 COMMISSIONER UNDER SUBSECTION (8).

6 (10) AS USED IN THIS SECTION:

7 (A) "BOTTOMLAND" MEANS THE LAND AREA OF A WATER BODY THAT
8 LIES BELOW THE ORDINARY HIGH-WATER MARK AND THAT MAY OR MAY NOT
9 BE COVERED BY WATER.

10 (B) "DREDGING" MEANS THE REMOVAL OF SEDIMENTS FROM
11 BOTTOMLAND.

12 (C) "DREDGING COSTS" MEANS THE COSTS ASSOCIATED WITH DREDG-
13 ING THAT WERE INCURRED AFTER JANUARY 1, 2000, INCLUDING COSTS OF
14 REMOVAL, DISPOSAL, AND TESTING OF SEDIMENTS, AND THE COSTS ASSO-
15 CIATED WITH OBTAINING NECESSARY PERMITS REQUIRED TO CONDUCT
16 DREDGING.

17 (D) "MARINA" MEANS A NON-PUBLICLY-OWNED COMMERCIAL FACILITY
18 THAT IS LOCATED IN THIS STATE, THAT EXTENDS INTO OR OVER A WATER
19 BODY, AND THAT OFFERS SERVICES TO THE PUBLIC FOR DOCKING, LOAD-
20 ING, OR OTHER SERVICING OF RECREATIONAL WATERCRAFT.

21 (E) "MARINA DREDGING LOAN" MEANS A LOAN MADE TO THE OWNER OF
22 A MARINA FOR DREDGING COSTS NECESSITATED BY LOW WATER LEVELS TO
23 ACCOMMODATE THE USE OF THE MARINA BY RECREATIONAL WATERCRAFT.

24 (F) "ORDINARY HIGH-WATER MARK" MEANS EITHER OF THE
25 FOLLOWING:

1 (i) FOR AN INLAND LAKE OR STREAM, THAT TERM AS IT IS DEFINED
2 IN SECTION 30101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL
3 PROTECTION ACT, 1994 PA 451, MCL 324.30101.

4 (ii) FOR THE GREAT LAKES, THE ORDINARY HIGH-WATER MARK AS
5 DESCRIBED IN SECTION 32502 OF THE NATURAL RESOURCES AND ENVIRON-
6 MENTAL PROTECTION ACT, 1994 PA 451, MCL 324.32502.

7 (G) "SURPLUS FUNDS" MEANS, AT ANY GIVEN DATE, THE EXCESS OF
8 CASH AND OTHER RECOGNIZED ASSETS THAT ARE EXPECTED TO BE RESOLVED
9 INTO CASH OR ITS EQUIVALENT IN THE NATURAL COURSE OF EVENTS AND
10 WITH A REASONABLE CERTAINTY, OVER THE LIABILITIES AND NECESSARY
11 RESERVES AT THE SAME DATE.

12 (H) "WATER BODY" MEANS THE GREAT LAKES AND THEIR CONNECTING
13 WATERS AND INLAND LAKES AND STREAMS AS DEFINED IN SECTION 30101
14 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994
15 PA 451, MCL 324.30101.

16 Sec. 3. (1) A financial institution shall not be a deposi-
17 tory of surplus funds of the state unless the financial institu-
18 tion complies with this act. The state treasurer shall require
19 of a financial institution, before it is made a depository of
20 surplus funds of the state, good and ample security as approved
21 by the state treasurer and the attorney general for the safekeep-
22 ing and reimbursement of the surplus funds and the payment of the
23 rate of return as the state treasurer, in the treasurer's discre-
24 tion, considers best for the interest of the state.

25 (2) The state treasurer may invest surplus funds of the
26 state in the bonds, notes, and other evidences of indebtedness of
27 the United States government and its agencies, in prime

1 commercial paper, and may also use surplus funds in the manner
2 provided in sections 2, 2a, ~~and~~ 2b, AND 2D and may use each
3 fiscal year not more than that amount of the surplus funds neces-
4 sary to make loans to municipalities under section 1.

5 (3) All earnings from loans made under section 1 in excess
6 of the average rate of interest earned on other surplus funds
7 during the same period shall be credited to the general fund of
8 the state. Any loss of principal or interest sustained from
9 loans made under section 1 shall reduce the earnings of the gen-
10 eral fund on an amortized basis over the remaining term of the
11 loan.

12 (4) The investment of surplus state funds in bonds, notes,
13 and other evidences of indebtedness of the United States govern-
14 ment and its agencies as provided in subsection (1) may include
15 securities of, or other interests in, a no-load open-end or
16 closed-end management type investment company or investment trust
17 registered under the investment company act of 1940, TITLE I OF
18 CHAPTER 686, 54 STAT. 789, 15 U.S.C. 80a-1 to 80a-3 AND 80a-4 TO
19 80a-64, if both of the following are true:

20 (a) The portfolio of the investment company or investment
21 trust is limited to United States government obligations and
22 repurchase agreements fully collateralized by United States gov-
23 ernment obligations.

24 (b) The investment company or investment trust takes deliv-
25 ery of the collateral for any repurchase agreement either
26 directly or through an authorized custodian.

1 Sec. 7. As used in this act:

2 (a) "Commissioner" means the commissioner of the ~~financial~~
3 ~~institutions bureau~~ OFFICE OF FINANCIAL AND INSURANCE SERVICES
4 of the department of ~~commerce~~ CONSUMER AND INDUSTRY SERVICES.

5 (b) "Deposit" includes the purchase of, or investment in,
6 shares of credit unions.

7 (c) Except as otherwise provided by this subdivision,
8 "financial institution" means a state or nationally chartered
9 bank or a state or federally chartered savings and loan associa-
10 tion, savings bank, or credit union whose deposits are insured by
11 an agency of the United States government and which maintains a
12 principal office or branch office located in this state under the
13 laws of this state or the United States. For the purpose of
14 repurchase agreements, "financial institution" means a state or
15 nationally chartered bank or state or federally chartered savings
16 and loan association, savings bank, or credit union whose depos-
17 its are insured by an agency of the United States government
18 under the laws of this state or the United States.