

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2638

Introduced by Assembly Member Gatto

February 19, 2016

An act to amend Section 16429.2 ~~of of~~, and to add Article 12 (commencing with Section 16429.50) to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, relating to ~~local~~ government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2638, as amended, Gatto. ~~Local Investment Advisory Board: members.~~ *Government finance: investment.*

Existing

(1) Existing law creates the Local Agency Investment Fund, a trust fund in the custody of the Treasurer, in which local governments and other specified governmental entities may deposit, for investment, moneys that are not required for immediate needs. Existing law authorizes the Treasurer, with the advice of the Local Investment Advisory Board, to invest the moneys in the fund. Existing law requires the board to be made up of 5 members, including the Treasurer or his or her representative, 2 members appointed by the Treasurer who are experienced in the field of investment, and 2 members appointed by the Treasurer who are treasurers, finance or fiscal officers, or business managers employed by a county, city or local district, or municipal corporation of this state. Existing law establishes that the term of office of each appointed member of the board is 2 years.

This bill would extend the term of each of the appointed members of the board to 3 years. The bill would also make several nonsubstantive changes.

(2) Existing law creates the Pooled Money Investment Board and authorizes it to determine whether any money on deposit in the State Treasury, with specified exceptions, is not necessary for immediate use and to designate that money as “surplus money.” Existing law requires transfer of this surplus money to the Surplus Money Investment Fund and requires that the moneys be invested by the Treasurer in specified eligible investment vehicles.

Existing law creates the Local Agency Investment Fund, a trust fund in the custody of the Treasurer, in which local governments and other specified governmental entities may deposit, for investment, moneys that are not required for immediate needs. Existing law authorizes the Treasurer, with the advice of the Local Investment Advisory Board, to invest the moneys in the fund in specified securities that are eligible for the investment of surplus state funds.

This bill would create the Intermediate and Long Term Investment Fund to receive voluntary deposit of funds by a governmental entity so that those funds may benefit from the intermediate or long-term investments authorized by this bill. The bill would, in addition, authorize investment of moneys that are deposited in the Intermediate and Long Term Investment Fund in long-term corporate and government bonds, in gold, and in convertible securities.

This bill would establish the Long Term Investment Board. The board would consist of 5 members with the Treasurer as the chair. The Treasurer would select the remaining 4 members, based upon specified criteria, for 2-year terms. The board’s primary purpose would be to advise and assist the Treasurer in formulating the investment and reinvestment of moneys in the fund and the acquisition, retention, management, and disposition of investments of the fund. The bill would require the board to submit quarterly and annual reports regarding the performance of the investments in the fund to the Legislature and to the Department of Finance.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16429.2 of the Government Code is
2 amended to read:

3 16429.2. There is created the Local Investment Advisory Board
4 consisting of five members. The chair shall be the Treasurer or his
5 or her designated representative. Two members who are qualified
6 by training and experience in the field of investment or finance,
7 shall be appointed by the Treasurer. Two members who are
8 treasurers, finance or fiscal officers, or business managers
9 employed by any county, city or local district, or municipal
10 corporation of the state, shall be appointed by the Treasurer.

11 The term of office of each appointed member of the board is
12 three years, but each appointed member serves at the pleasure of
13 the appointing authority. A vacancy in the appointed membership,
14 occurring other than by expiration of term, shall be filled in the
15 same manner as the original appointment, but for the unexpired
16 term only.

17 Members of the board who are not state officers or employees
18 shall not receive a salary, but shall be entitled to a per diem
19 allowance of fifty dollars (\$50) for each day's attendance at a
20 meeting of the board, not to exceed three hundred dollars (\$300)
21 in any month. All members shall be entitled to reimbursement for
22 expenses incurred in the performance of their duties under this
23 part, including travel and other necessary expenses.

24 The board's primary purpose shall be to advise and assist the
25 Treasurer in formulating the investment and reinvestment of
26 moneys in the Local Agency Investment Fund, and the acquisition,
27 retention, management, and disposition of investments of the fund.
28 The board, from time to time, shall review those policies and advise
29 therein as it considers necessary or desirable. The board shall
30 advise the Treasurer in the management of the fund and consult
31 the Treasurer on any matter relating to the investment and
32 reinvestment of moneys in the fund.

33 SEC. 2. *Article 12 (commencing with Section 16429.50) is*
34 *added to Chapter 2 of Part 2 of Division 4 of Title 2 of the*
35 *Government Code, to read:*

Article 12. *Intermediate and Long Term Investment Fund*

16429.50. (a) *The Intermediate and Long Term Investment Fund is hereby created. The Treasurer shall administer the fund and shall maintain a separate account within the fund for each governmental unit having deposits in this fund.*

(b) *The purpose of the fund is to permit voluntary deposit of funds by a governmental entity where those funds may benefit from the intermediate or long-term investments authorized by this article.*

(c) *The moneys deposited into the Intermediate and Long Term Investment Fund shall be subject to the requirements of Section 16430, except that the moneys may also be invested in corporate bonds with a maturity of up to three years, in government bonds with a maturity of up to 30 years, in physical gold, and in convertible securities.*

(d) *The Intermediate and Long Term Investment Advisory Board shall recommend to the Treasurer the moneys in the Surplus Money Investment Fund or the Local Agency Investment Fund which qualify to participate in the Intermediate and Long Term Investment Fund.*

(e) *The Treasurer may refuse to accept deposits into the fund if, in the judgment of the Treasurer, the deposit would adversely affect the state's portfolio.*

(f) *Money in the fund shall be invested to achieve the objective of the fund, which is to realize the maximum return consistent with safe and prudent management.*

(g) *All instruments of title of all investments of the fund shall remain in the Treasurer's vault or be held in safekeeping under control of the Treasurer in any federal reserve bank, or any branch thereof, or the Federal Home Loan Bank of San Francisco, with any trust company, or the trust department of any state or national bank.*

(h) *Immediately at the conclusion of each calendar quarter, all interest earned and other increment derived from investments shall be distributed by the Controller to the contributing governmental units or trustees or fiscal agents, nonprofit corporations, and quasi-governmental agencies in amounts directly proportionate to the respective amounts deposited in the Intermediate and Long*

1 *Term Investment Fund and the length of time the amounts remained*
2 *therein. An amount equal to the reasonable costs incurred in*
3 *carrying out the provisions of this section, not to exceed a*
4 *maximum of 5 percent of the earnings of this fund and not to exceed*
5 *the amount appropriated in the annual Budget Act for this function,*
6 *shall be deducted from the earnings prior to distribution. However,*
7 *if the 13-week Daily Treasury Bill Rate, as published by the United*
8 *States Department of the Treasury, on the last day of the state's*
9 *fiscal year is below 1 percent, then the above-noted reasonable*
10 *costs shall not exceed a maximum of 8 percent of the earnings of*
11 *this fund for the subsequent fiscal year; shall not exceed the amount*
12 *appropriated in the annual Budget Act for this function, and shall*
13 *be deducted from the earnings prior to distribution. The amount*
14 *of the deduction shall be credited as reimbursements to the state*
15 *agencies, including the Treasurer, the Controller, and the*
16 *Department of Finance, having incurred costs in carrying out the*
17 *provisions of this article.*

18 *16429.52. (a) Moneys placed with the Treasurer for deposit*
19 *in the Intermediate and Long Term Investment Fund from the Local*
20 *Agency Investment Fund shall be held in trust. Those funds shall*
21 *not be subject to either of the following:*

22 *(1) Transfer or loan pursuant to Section 16310, 16312, or*
23 *16313.*

24 *(2) Impoundment or seizure by any state official or state agency.*

25 *(b) (1) The right of a city, county, city and county, special*
26 *district, nonprofit corporation, or qualified quasi-governmental*
27 *agency to withdraw its deposited moneys from the Intermediate*
28 *and Long Term Investment Fund, upon demand, shall not be*
29 *altered, impaired, or denied, in any way, by any state official or*
30 *state agency based upon the state's failure to adopt a State Budget*
31 *by July 1, of each new fiscal year.*

32 *(2) Notwithstanding paragraph (1), if an agency prematurely*
33 *withdraws moneys deposited in a medium- or long-term investment,*
34 *the agency shall pay its fair share of any penalty imposed, as*
35 *determined by the Treasurer.*

36 *16429.54. (a) The Intermediate and Long Term Investment*
37 *Advisory Board is hereby established, consisting of five members.*
38 *The chairperson shall be the Treasurer or his or her designated*
39 *representative. Two members who are qualified by training and*
40 *experience in the field of investing and finance shall be appointed*

1 by the Treasurer. Two members who are treasurers, finance or
2 fiscal officers, or business managers, employed by any county,
3 city, or local district or municipal corporation of this state, shall
4 be appointed by the Treasurer. No member of either the Local
5 Investment Advisory Board or the Pooled Money Investment Board
6 is eligible to be selected by the Treasurer for the Intermediate and
7 Long Term Investment Board.

8 (b) The term of office of each appointed member of the board
9 is two years, but each appointed member serves at the pleasure of
10 the appointing authority. A vacancy in the appointed membership,
11 occurring other than by expiration of term, shall be filled in the
12 same manner as the original appointment, but for the unexpired
13 term only.

14 (c) Members of the board who are not state officers or
15 employees shall not receive a salary, but shall be entitled to a per
16 diem allowance of fifty dollars (\$50) for each day's attendance at
17 a meeting of the board, not to exceed three hundred dollars (\$300)
18 in any month. All members shall be entitled to reimbursement for
19 expenses incurred in the performance of their duties under this
20 part, including travel and other necessary expenses.

21 (d) The board's primary purpose shall be to advise and assist
22 the Treasurer in formulating the investment and reinvestment of
23 moneys in the Intermediate and Long Term Investment Fund and
24 the acquisition, retention, management, and disposition of
25 investments of the fund. The board, from time to time, shall review
26 those policies and advise therein as it considers necessary or
27 desirable.

28 (e) The board shall distribute investment performance reports
29 quarterly and distribute an annual report to the Legislature, in
30 compliance with Section 9795 of the Government Code, and to the
31 Department of Finance. The investment performance reports shall
32 include investment returns, comparisons to benchmarks, holdings,
33 market values, and fees.