



STATE OF NEVADA
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April 21, 2015

OPINION NO. 2015-02

INVESTMENTS; TREASURER; FUNDS:

A demand deposit bank account is not a permitted investment vehicle for the Local Government Pooled Investment Fund. A demand deposit bank account, if approved by the State Board of Finance, is a permitted location for monies in the Local Government Pooled Investment Fund while such monies await investment or distribution.

The Honorable Dan Schwartz
Treasurer of the State of Nevada
State Capitol Building
Carson City, Nevada 89701

Dear Mr. Schwartz:

You have requested an opinion from the Office of the Attorney General concerning whether (1) a demand deposit bank account is a permitted investment vehicle for monies in the Local Government Pooled Investment Fund (the Fund); or (2) a demand deposit bank account is a permitted temporary deposit location for monies in the Fund pending investment or distribution thereof.

QUESTION ONE

Is a demand deposit bank account a permitted investment vehicle for monies in the Local Government Pooled Investment Fund?

SUMMARY CONCLUSION TO QUESTION ONE

A demand deposit bank account is not a permitted investment vehicle for the Local Government Pooled Investment Fund.

ANALYSIS

Your office administers the Local Government Pooled Investment Fund, which consists of pooled monies from local governments deposited for investment purposes. NRS 355.167(1) and (2). In the ordinary course of administering such monies, to meet the liquidity needs of the Fund, your office keeps approximately ten percent of monies on deposit in investments very close to maturity.¹ Such investments currently garner a very small rate of return—as low as one basis point—which is less than that available from a demand deposit account offered by a bank. And unlike a demand deposit account, the very short term investments your office must use for reasons of liquidity are neither insured nor collateralized. Therefore, your office wishes to place monies it may need in the short term in an insured and collateralized demand deposit account. Your question is whether that would be an allowed investment of such monies.

Collateralized demand deposits are not identified as an investment vehicle for the Fund. In fact, the only bank deposit that is a permitted investment vehicle is the timed certificate of deposit (which must be insured or collateralized pursuant to NRS 356.020). NRS 355.167(3)(b). Our office has previously rendered opinions advising the Treasurer's Office that only investment vehicles enumerated in statute are permitted investment vehicles. See, e.g., Letter Opinion to the Honorable Ken Santor, Treasurer of the State of Nevada (June 3, 1988). This advice is supported by the legislative canon of interpretation *expressio unius est exclusio alterius*, which means "the expression of one thing is the exclusion of the other." *In re Estate of Prestie*, 122 Nev. 807, 814, 138 P.3d 520, 524 (2006). Because a demand deposit bank account is not among the investment vehicles for the Fund identified in NRS 355.167, it is not a permitted investment vehicle for the Fund.

QUESTION TWO

May monies in the Local Government Pooled Investment Fund that are not invested be placed in a demand deposit account in a bank pending investment or distribution thereof?

¹ The current policy for the Fund calls for the Treasurer to meet the Fund's cash needs by, among other means, "[e]ndeavor[ing] to hold 5% - 10% of the portfolio's total par value in securities with a maturity of one (1) day." See *Office of the State Treasurer Investment Policy, Local Government Pooled Investment Fund (LGIP) (2011)*.

SUMMARY CONCLUSION TO QUESTION TWO

A demand deposit bank account, if approved by the State Board of Finance and if collateralized for any amount deposited not covered by federal insurance limits, is a permitted location for monies in the Local Government Pooled Investment Fund while such monies await investment or distribution.

ANALYSIS

There are various times when local government monies placed for investment in the Fund are not actually currently invested, either because they are awaiting initial investment, are between investments, or are awaiting distribution. NRS Chapter 355 does not specify how such monies are to be held.

NRS 356.005 provides the general authority for public monies to be deposited in bank accounts. Specifically, it provides that "a state agency if approved by the State Board of Finance, may deposit public money in any insured state or national bank, in any insured credit union or in any insured savings and loan association." A condition for such a deposit is that it be collateralized to the extent not federally insured: "[a]ll money deposited by the State Treasurer which is not within the limits of insurance provided by an instrumentality of the United States must be secured by collateral. . . ." NRS 356.020(1).

Therefore, while the Treasurer does not have authority to invest the Fund in demand deposit bank accounts, he may temporarily deposit monies being held pending investment in such an account if approved by the State Board of Finance. To the extent such deposited monies are not within the limits of federal deposit insurance, statutory collateralization requirements must be met.

Sincerely,

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By: 

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