F I S C A L I M P A C T R E P O R T

SPONSOR Munoz **ORIGINAL DATE** 01/24/13 **LAST UPDATED** 01/31/13 **HB**

SHORT TITLE Local Gov't Investment Pool **SB** 24/aSPAC

ANALYST van Moorsel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		~~($30.0)~~	~~($30.0)~~	~~($60.0)~~	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
State Treasurer's Office (STO)
Department of Finance and Administration (DFA)
Board of Finance (BoF)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 24 restores the requirement for the State Treasurer to have the LGIP rated. The original version of Senate Bill 24 would have made that an option rather than a requirement.

Maintaining this requirement would require the State Treasurer's Office to continue to incur the cost of ratings agency services, and would eliminate the operating budget savings initially estimated by the agency.

Synopsis of Original Bill

Senate Bill 24 amends current law to clarify authorized investments of the State Treasurer and to increase the percentage of general funds that may be invested in the local government investment pool (LGIP).

Specifically, the bill clarifies permitted investments of the state treasurer's office as well as county and municipal treasurers to securities issued and backed by the full faith and credit of the United States of America and its agencies or instrumentalities. This language may include more agencies and instrumentalities of the US government than the previous list that included the federal home loan mortgage association, the federal national mortgage association, the federal farm credit bank, federal home loan banks, or the student loan marketing association.

The provisions of SB14 will allow the State Treasurer to invest General Fund Investment Pool balances in the LGIP to a greater extent. Current law restricts general funds invested in the LGIP to a maximum of 5 percent of the LGIP balance, and the bill would allow that to go as high as 35 percent.

The bill would also allow the State Treasurer to invest general fund balances in municipal bonds issued by the State of New Mexico, New Mexico political subdivisions, as well as other states and their political subdivisions.

SB24 amends section 6-10-10.1 NMSA 1978 to relax the requirement for the State Treasurer to have the LGIP rated, making that an option rather than a requirement.

Page 10, Line 4 of the bill amends existing statute to reflect current business practices of the State that have evolved over time. Collateral for investments is typically no longer physically delivered to the State's fiscal agent or custody bank.

Finally, SB24 also changes instances of “participating government investment fund” to the industry standard “local government investment pool.”

The bill does not specify an effective date. It is assumed that the new effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

The STO notes that if the agency elects to remove the rating from the local government investment pool, the net result would be the elimination of the required rating agency fees, currently estimated at approximately $30,000 per year.

SIGNIFICANT ISSUES

The DFA/BoF notes Laws 2011, Chapter 158 relates to the amendments this bill makes to Section 6-10-10(N)(3). The 2011 bill intended to increase the maximum percentage of the Local Government Investment Pool that could be made up of invested balance of the General Fund Investment Pool and the Bond Proceeds Investment Pools from 5 percent of the LGIP balance to 35 percent of the LGIP balance. The 2011 law failed to also amend Section 6-10-10(N)(3), which still limits General Fund deposits to 5 percent of the LGIP balance. Among other changes, this section amends Section 6-10-10(N)(3) to complete the intent of the 2011 law. According to the State Treasurer's Office, allowing the general fund to invest more heavily in the LGIP balance will allow greater cash flow flexibility in LGIP balances.

The DFA/BoF adds that in more typical market conditions, the ability of the Treasurer to invest general fund balances in municipal securities would not necessarily be beneficial. Municipal bonds are often issued at a lower, tax-exempt rate, reflecting the fact that earnings on those tax-exempt bonds are exempt from federal income tax. Because the Treasurer's portfolio is not subject to income tax, the portfolio does not benefit from the tax exemption. However, in recent times, dislocations in bond yields has resulted in tax-exempt bonds offering competitive earnings as compared to taxable bonds.

The DFA/BoF also states that current language found in Section 6-10-10.1(I) NMSA 1978 requiring the Treasurer to obtain a rating of AA or better on the LGIP was enacted in 2006 following the indictment of former treasurers Robert Vigil and Michael Montoya. The requirement to have the LGIP rated was based on a recommendation contained in a report from Public Financial Management in response to a contract with the Legislative Finance Committee to reform the State Treasurer's Office and related statutes. By requiring a rating, it was anticipated that a national rating agency would monitor the LGIP on a weekly basis and require that any imprudent actions be amended quickly. That monitoring may have helped to restore confidence in the LGIP following the indictments. The current Treasurer argues that having the LGIP rated is not worth the roughly $30,000 paid annually to Standard & Poor's, and points out that having the fund rated does not guarantee principal or collateralized deposits.

The Treasurer has also expressed concerns that in the event an unexpected event occurs (such as the sudden bankruptcy of Lehman Brothers in 2008 which triggered a financial disaster), the LGIP rating may fall below AA and then could have to be dissolved. The current statute requires the Treasurer to immediately submit a plan to the State Board of Finance detailing steps to get back to a rating of AA or higher. As a result, the BoF suggests an alternative to removing the requirement that the LGIP be rated. Instead, the existing language could be made more clear allowing a certain number of days (for example 30) for the State Treasurer to get back to a rating of AA or higher.

ALTERNATIVES

See "Significant Issues"

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

PvM/svb:bm