GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2013 REGULAR SESSION

HOUSE BILL NO. 234

AS ENACTED

MONDAY, MARCH 11, 2013

RECEIVED AND FILED
DATE March 21, 2013
3:44pm

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to the State Investment Commission.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 42.500 is amended to read as follows:

4 (1) There shall be a State Investment Commission composed of the Governor who shall
5 be chairman; the State Treasurer who shall be vice chairman and serve as chairman
6 in the absence of the Governor; the secretary of the Finance and Administration
7 Cabinet; and two (2) persons appointed by the Governor.

8 (2) The individuals appointed by the Governor shall be selected as follows: one (1) to
9 be selected from a list of five (5) submitted to the Governor by the Kentucky
10 Bankers Association, and one (1) to be selected from a list of five (5) submitted to
11 the Governor by the Independent Community Bankers Association.

12 (3) The State Investment Commission shall meet at least quarterly to review investment
13 performance and conduct other business. This provision shall not prohibit the
14 commission from meeting more frequently as the need arises.

15 (4) The Governor, State Treasurer, and secretary of the Finance and Administration
16 Cabinet shall each have the authority to designate, by an instrument in writing over
17 his or her signature and filed with the secretary of the commission as a public record
18 of the commission, an alternate with full authority to:

19 (a) Attend in the member's absence, for any reason, any properly convened
20 meeting of the commission; and

21 (b) Participate in the consideration of, and vote upon, business and transactions of
22 the commission.

23 Each alternate shall be a person on the staff of the appointing member or in the
24 employ of the appointing member's state agency or department.

25 (5) Any designation of an alternate may, at the appointing member's direction:

26 (a) Be limited upon the face of the appointing instrument to be effective for only
27 a specific meeting or specified business;

1 (b) Be shown on the face of the appointing instrument to be a continuing
2 designation, for a period of no more than four (4) years, whenever the
3 appointing member is unable to attend; or
4 (c) Be revoked at any time by the appointing member in an instrument in writing,
5 over his or her signature, filed with the secretary of the commission as a
6 public record of the commission.
7 (6) Any person transacting business with, or materially affected by, the business of the
8 commission may accept and rely upon a joint certificate of the secretary of the
9 commission and any member of the commission concerning the designation of any
10 alternate, the time and scope of the designation, and, if it is of a continuing nature,
11 whether and when the designation has been revoked. The joint certificate shall be
12 made and delivered to the person requesting it within a reasonable time after it has
13 been requested in writing, with acceptable identification of the business or
14 transaction to which it refers and the requesting person's interest in the business or
15 transaction.
16 (7) Any three (3) persons who are members of the commission or alternates authorized
17 under subsections (4) and (5) of this section shall constitute a quorum and may, by
18 majority vote, transact any business of the commission. Any three (3) members of
19 the commission may call a meeting.
20 (8) The provisions of KRS 61.070 shall not apply to members of the commission.
21 (9) The commission shall have authority and may, if in its opinion the cash in the State
22 Treasury is in excess of the amount required to meet current expenditures, invest
23 any and all of the excess cash in:
24 (a) Obligations and contracts for future delivery of obligations backed by the full
25 faith and credit of the United States or a United States government agency,
26 including but not limited to:
27 1. United States Treasury;

1 2. Export-Import Bank of the United States;
2 3. Farmers Home Administration;
3 4. Government National Mortgage Corporation; and
4 5. Merchant Marine bonds;
5 (b) Obligations of any corporation of the United States government ***or***
6 ***government-sponsored enterprise***, including but not limited to:
7 1. Federal Home Loan Mortgage Corporation;
8 2. Federal Farm Credit Banks;
9 a. Bank for Cooperatives;
10 b. Federal Intermediate Credit Banks; and
11 c. Federal Land Banks;
12 3. Federal Home Loan Banks;
13 4. Federal National Mortgage Association; and
14 5. Tennessee Valley Authority obligations;
15 (c) Collateralized or uncollateralized certificates of deposit, issued by banks rated
16 in one (1) of the three (3) highest categories by a nationally recognized
17 ***statistical*** rating ***organization***~~[agency]~~ or other interest-bearing accounts in
18 depository institutions chartered by this state or by the United States, except
19 for shares in mutual savings banks;
20 (d) Bankers acceptances for banks rated in ~~[one (1) of]~~the ~~[three (3)]~~highest
21 ***short-term category***~~[categories]~~ by a nationally recognized ***statistical*** rating
22 ***organization***~~[agency]~~;
23 (e) Commercial paper rated in the highest ***short-term*** category by a nationally
24 recognized ***statistical*** rating ***organization***~~[agency]~~;
25 (f) Securities issued by a state or local government, or any instrumentality or
26 agency thereof, in the United States, and rated in one (1) of the three (3)
27 highest ***long-term*** categories by a nationally recognized ***statistical*** rating

1 ***organization***[~~agency~~];

2 (g) United States denominated corporate, Yankee, and Eurodollar securities,
3 excluding corporate stocks, issued by foreign and domestic issuers, including
4 sovereign and supranational governments, rated in one (1) of the three (3)
5 highest ***long-term*** categories by a nationally recognized ***statistical*** rating
6 ***organization***[~~agency~~];

7 (h) Asset-backed securities rated in the highest category by a nationally
8 recognized ***statistical*** rating ***organization***[~~agency~~]; and

9 (i) Shares of mutual funds, [~~not to exceed ten percent (10%) of the total funds~~
10 ~~available for investment as described in subsection (9) of this section,~~]each of
11 which shall have the following characteristics:

12 1. The mutual fund shall be an open-end diversified investment company
13 registered under Federal Investment Company Act of 1940, as amended;

14 2. The management company of the investment company shall have been
15 in operation for at least five (5) years;

16 3. ***The mutual fund shall be rated in the highest category by a nationally***
17 ***recognized statistical rating organization;***

18 ***4. All***[~~At least ninety percent (90%)~~] of the securities in the mutual fund
19 shall be eligible investments pursuant to this section; and

20 (j) State and local delinquent property tax claims which upon purchase shall
21 become certificates of delinquency secured by interests in real property not to
22 exceed twenty-five million dollars ($25,000,000) in the aggregate. For any
23 certificates of delinquency that have been exonerated pursuant to KRS
24 132.220(5), the Department of Revenue shall offset the loss suffered by the
25 Finance and Administration Cabinet against subsequent local distributions to
26 the affected taxing districts as shown on the certificate of delinquency.

27 (10) The State Investment Commission shall promulgate administrative regulations for

1 the investment and reinvestment of state funds in shares of mutual funds, and the
2 regulations shall specify:
3 (a) The long and short term goals of any investment;
4 (b) The specification of moneys to be invested;
5 (c) The amount of funds which may be invested per instrument;
6 (d) The qualifications of instruments; and
7 (e) The acceptable maturity of investments.
8 (11) Any investment in obligations and securities pursuant to subsection (9) of this
9 section shall satisfy this section if these obligations are subject to repurchase
10 agreements, provided that delivery of these obligations is taken either directly or
11 through an authorized custodian.
12 (12) (a) Income earned from investments made pursuant to this section shall accrue to
13 the credit of the investment income account of the general fund, except that
14 interest from investments of excess cash in the road fund shall be credited to
15 the surplus account of the road fund and interest from investments of excess
16 cash in the game and fish fund shall be credited to the game and fish fund,
17 interest earned from investments of imprest cash funds and funds in the trust
18 and revolving fund for each state public university shall be credited to the
19 appropriate institutional account, and interest earned from the investment of
20 funds accumulated solely by means of contributions and gifts shall not be
21 diverted to any purpose other than that stipulated by the donor, when the
22 donor shall have designated the use to which the interest shall be placed.
23 (b) Except as otherwise provided by law, or by the obligations and covenants
24 contained in resolutions and trust indentures adopted or entered into for state
25 bond issues, interest earned from the investment of moneys appropriated to
26 the capital construction accounts, trust and agency accounts, and trust and
27 agency revolving accounts shall accrue to the capital construction investment

1 income account.

2 (c) If there is a revenue shortfall, as defined in KRS 48.010, of five percent (5%)
3 or less, the secretary of the Finance and Administration Cabinet, upon the
4 recommendation of the state budget director, may direct the transfer of excess
5 unappropriated capital construction investment income to the general fund
6 investment income account. The amount of the transfer shall not exceed the
7 amount of the shortfall in general fund revenues.

8 (d) If the capital construction investment income is less than that amount
9 appropriated by the General Assembly, the secretary of the Finance and
10 Administration Cabinet may, upon recommendation of the state budget
11 director, direct the transfer of excess unappropriated general fund investment
12 income to the capital construction investment income account. The transfer of
13 general fund investment income revenues to the capital construction
14 investment income account shall be made only when the actual general fund
15 revenues are in excess of the enacted estimates under KRS 48.120 and shall be
16 limited to the amount of the excess general fund revenues. The amount of the
17 transfer shall not exceed the amount of the shortfall in the capital construction
18 fund revenues.

19 (13) The authority granted by this section to the State Investment Commission shall not
20 extend to any funds that are specifically provided by law to be invested by some
21 other officer or agency of the state government.

22 (14) The authority granted by this section to the State Investment Commission shall only
23 be exercised pursuant to the administrative regulations mandated by KRS 42.525.

24 (15) Each member of the State Investment Commission, with the exception of the
25 Governor, shall post bond for his acts or omissions as a member thereof identical in
26 amount and kind to that posted by the State Treasurer.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 3-21-13