

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Local government funds-pooled equity investments.

Sponsored by: Select Committee on Capital Financing & Investments

A BILL

for

1 AN ACT relating to public funds; authorizing local
2 governments to form a pool for purposes of investing local
3 government funds in equities; specifying requirements for
4 the establishment and operation of the local government
5 equity investment pool; establishing a board for the pool
6 and an investment advisory committee; providing
7 requirements for the board and committee; requiring
8 reports; providing definitions; and providing for an
9 effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

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2 *****
3 STAFF COMMENT
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5 Under Article 16, Section 6(a)(ii)(C) of the Wyoming
6 Constitution, this bill draft would require a 2/3 vote of
7 each house voting separately to be enacted. The text of the
8 provision follows:
9

10 Article 16, Section 6 Loan of credit; donations
11 prohibited; investment of funds; works of internal
12 improvement.
13

14 (a) Neither the state nor any county, city, township,
15 town, school district, or any other political subdivision,
16 shall:
17

18 (ii) Subscribe to or become the owner of the
19 capital stock of any association or corporation, except
20 that:
21

22 (C) The legislature may provide by law for
23 the investment of county, city, township, town, school
24 district, or any other political subdivision's funds in the
25 capital stock of any association or corporation and may
26 designate which of these funds may be invested. The
27 legislature may prescribe different investment conditions
28 for each type and class of political subdivision and for
29 each type of fund. Any legislation establishing or
30 increasing the percentage of any fund that may be invested
31 under this subparagraph shall be passed only by a two-
32 thirds (2/3) vote of all the members of each of the two (2)
33 houses voting separately.
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39 Section 1. W.S. 9-4-1401 through 9-4-1404 are created
40 to read:
41

1

ARTICLE 14

2

INVESTMENT OF LOCAL FUNDS

3

4

9-4-1401. Definitions.

5

6

(a) As used in this article:

7

8

(i) "Board" means the local government equity investment pool joint powers board formed under this article;

11

12

(ii) "Investment advisory committee" means the investment advisory committee created by W.S. 9-4-1404;

14

15

(iii) "Local government" means a county, city and town;

17

18

(iv) "Pool" means the local government equity investment pool.

20

21

9-4-1402. Local government equity investment pool; creation.

23

1 There is created the local government equity investment
2 pool program to provide a mechanism for local governments
3 to pool funds for investment in equities, including stocks
4 of corporations. It is the intent of the legislature that
5 the local government equity investment pool shall be
6 operated by a joint powers board formed by local
7 governments participating in the pool and administered in
8 accordance with the provisions of this article.

9

10 **9-4-1403. Local government equity investment pool;**
11 **board; duties and powers.**

12

13 (a) The local government equity investment pool joint
14 powers board shall consist of a number of members as
15 determined by the local governments that participate in the
16 pool. Board members shall serve terms as determined by the
17 participating local governments and shall include members
18 from the different types of local governments that
19 participate in the pool.

20

21 (b) The participating local governments may provide
22 salary, per diem and mileage to board members and members
23 of the investment advisory committee for expenses incurred

1 in the performance of their duties in an amount not to
2 exceed the amounts provided in W.S. 28-5-101.

3

4 (c) The board shall:

5

6 (i) Administer the pool;

7

8 (ii) Consult with and receive advice from the
9 investment advisory committee created by W.S. 9-4-1404 and
10 in accordance with this article;

11

12 (iii) Establish assessments and fees for
13 participating local governments to operate the pool.
14 Assessments may be calculated as a percentage of investment
15 earnings from the pool and may be assessed from the pool's
16 earnings, as determined by the board;

17

18 (iv) Apportion and collect assessments from each
19 participating local government. Assessments collected under
20 this subsection shall be used only for administrative
21 expenses of the board and investment advisory committee,
22 fees for investments under this section and expenses
23 specified in subsection (b) of this section;

1

2 (v) Adopt rules governing the administration of
3 the pool.

4

5 (d) The board shall, in consultation with the
6 investment advisory committee:

7

8 (i) Establish procedures for the investment of
9 the participating local governments' funds in appropriate
10 investment assets and classes, including equities and
11 stocks of corporations. Procedures established under this
12 paragraph shall provide:

13

14 (A) That any investments made under this
15 article shall be made with a person who has:

16

17 (I) Not less than ten (10) years of
18 investment experience involved in the management of a
19 portfolio in excess of one hundred ten million dollars
20 (\$110,000,000.00);

21

22 (II) A broad understanding of financial
23 markets;

1

2

(III) Not been convicted of or pleads guilty or nolo contendere to a felony violation or been the subject of any disciplinary action involving moral turpitude;

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7

(IV) No conflicts of interest that would lead to a violation of W.S. 6-5-106, 6-5-118, 16-6-118 or other comparable provision of law.

10

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STAFF COMMENT

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Below are the two qualification requirements for who can invest funds for local governments that were in the previous version of this bill draft; they are included here for Committee consideration, per the Committee's discussion:

20

21

(I) Is registered under the Investment Advisor's Act of 1940, as amended, if the person is required to be registered by the terms of that act;

24

25

(II) Has and maintains at least one (1) physical office in Wyoming.

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6 STAFF COMMENT

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8 At the Select Committee's September meeting, the Select
9 Committee voted to delete a paragraph concerning the
10 duration of investments made under this section. Per
11 discussion, that language is included in this staff comment
12 for further consideration.

13

14 (B) Each investment made under this section
15 shall be for a duration of not less than five (5) years;

16 *****

17 *****

18

19 (B) That funds provided for investment by
20 each participating local government shall not exceed the
21 amount specified in subsection (e) of this section;

22

23 (C) For the monitoring, controlling,
24 depositing and retaining of investments;

25

26 (D) For agreements to be made between the
27 pool and a person to invest the funds in appropriate
28 investment assets and classes, including stocks and
29 equities, in accordance with this article;

1

2 (E) For implementing investment policy
3 statements for the pool's investments developed under this
4 article and for ensuring that investments are made to
5 strive for the highest possible risk-adjusted total net
6 return consistent with an appropriate level of safety and
7 liquidity;

8

9 (F) For standards for competitive bidding to
10 be used to select a person or persons to invest the pool's
11 funds, in accordance with this article.

12

13 (ii) Establish a process by which participating
14 local governments enter into an agreement with the board
15 for the investment of funds in the pool, including
16 agreements and requirements for:

17

18 (A) How funds may be deposited or
19 transferred to the pool;

20

21 (B) How funds may be withdrawn from the
22 pool, including limitations on withdrawal and penalties to

1 be imposed on the local government for the early withdrawal
2 of funds from the pool;

3

4 (C) Ensuring that funds provided by
5 participating local governments may be invested to meet the
6 investment objectives specified in this article.

7

8 (iii) Establish procedures for the calculation
9 and disposition of earnings, including how earnings are
10 apportioned to each participating local government and how
11 earnings are deposited with or transferred to each
12 participating local government, in accordance with the
13 requirements of subsection (g) of this section.

14

15 (e) Each local government participating in the pool
16 shall only provide funds for investment in the pool in
17 accordance with the following:

18

19 (i) The amount of monies invested at any one (1)
20 time by the pool shall not exceed thirty percent (30%) of
21 the total amount of each participating local government's
22 reserves that are available for investment;

23

1 (ii) For purposes of this subsection, earnings
2 earned by the pool from funds invested under this section
3 shall not count toward the limits specified in this
4 subsection and may be reinvested in stocks and equities in
5 accordance with this section.

6

7 (f) The board may deny a local government
8 participation in or may terminate a local government from
9 the program for:

10

11 (i) A failure to pay the assessments required
12 under this article;

13

14 (ii) The early withdrawal of funds from the pool.

15

16 (g) Earnings on funds invested by the pool under this
17 article shall be credited in accordance with the following:

18

19 (i) Interest, dividends and rents earned shall
20 be credited not later than at the end of the second month
21 following each fiscal quarter;

22

1 (ii) Subject to paragraph (iii) of this
 2 subsection, other realized earnings shall be credited as
 3 soon as practicable after the end of the fiscal year but
 4 not later than ninety (90) days after the end of the fiscal
 5 year in which the earnings were realized;

6

7 (iii) Any debit against the pool that exists as
 8 a result of realized investment losses from a prior year's
 9 investments of the pool shall be paid before distributions
 10 under paragraph (ii) of this subsection;

11

12 (iv) Subject to the requirements of paragraph
 13 (iii) of this subsection, the board, in consultation with
 14 the investment advisory committee, may credit any earnings
 15 at earlier times than provided in this subsection and in
 16 such amounts as may be advantageous for the pool's
 17 investment program and cash management.

18

19 **9-4-1404. Local government equity investment pool;**
 20 **investment advisory committee.**

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24 **STAFF COMMENT**

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Most of the provisions of this section come from current law establishing and governing the Investment Funds Committee. The Select Committee will need to determine the appropriate structure and requirements for this investment advisory committee.

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(a) There is created the investment advisory committee for the local government equity investment pool. The committee consists of seven (7) voting members appointed by the board in accordance with this section.

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(b) The seven (7) voting members shall serve a three (3) year term. Three (3) voting members shall serve an initial term of three (3) years, two (2) voting members shall serve an initial term of two (2) years and two (2) voting members shall serve an initial term of one (1) year. Voting members are eligible for reappointment. Terms of appointment for voting members shall commence on March 1 of the year of appointment. Any appointed voting member of the committee may be removed by the board at any time or for malfeasance or misconduct in office. If an appointed voting position on the committee becomes vacant for any reason, the board shall, not later than sixty (60) days after the

1 position becomes vacant, appoint a member in accordance
2 with this section to fill the position for the remainder of
3 the unexpired term.

4

5 (c) The investment advisory committee shall select a
6 chairman from among its members. The committee shall hold
7 not less than four (4) regularly scheduled meetings each
8 year. Special meetings may be called by the chairman and
9 shall be called by the chairman upon a written request
10 submitted by a majority of the voting members. All matters
11 shall be decided by a majority vote of a quorum of the
12 voting members of the committee, except as otherwise
13 provided in this section.

14

15 (d) Each member of the board shall appoint one (1)
16 member to the investment advisory committee, except as
17 otherwise provided in this subsection. If the number of
18 board members exceeds seven (7), then the board shall
19 select each member of the investment advisory committee by
20 a majority vote. If the number of board members is less
21 than seven (7), then:

22

1 (i) Each member of the board shall appoint one
2 (1) member to the investment advisory committee; and

3

4 (ii) The board shall by majority vote select the
5 remaining members of the investment advisory committee.

6

7 (e) No person shall be appointed to the investment
8 advisory committee unless the person has all of the
9 following qualifications:

10

11 (i) Not less than ten (10) years of investment
12 experience involved in the management of a portfolio in
13 excess of one hundred ten million dollars
14 (\$110,000,000.00);

15

16 (ii) A broad understanding of financial markets;

17

18 (iii) Not been convicted of or has not pleaded
19 guilty or nolo contendere to a felony violation or been the
20 subject of any disciplinary action involving moral
21 turpitude;

22

1 (iv) No conflicts of interest that would lead to
2 a violation of W.S. 6-5-106, 6-5-118, 16-6-118 or other
3 comparable provision of law.

4

5 (f) The investment advisory committee shall:

6

7 (i) Develop, recommend and review investment
8 policies and procedures for the pool and recommend any
9 modifications as the committee deems appropriate to
10 maximize total net returns while protecting principal in a
11 manner that strives for the highest possible risk-adjusted
12 total net return consistent with an appropriate level of
13 safety, liquidity and consideration of the unique
14 circumstances for the pool;

15

16 (ii) Consult with the board as required and as
17 requested regarding the establishment and execution of
18 investment policies for the pool;

19

20 (iii) Report to the select committee on capital
21 financing and investments not less than one (1) time each
22 year regarding the pool's investment policies, procedures,
23 authority and execution.

1

2 (g) Liability of the investment advisory committee
3 members shall be governed by W.S. 1-23-107.

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7 STAFF COMMENT

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9 Subsection (g) above is based on current law applying to
10 the Investment Funds Committee. The text of W.S. 1-23-107
11 is below:

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13 1-23-107. Individual liability of members of
14 governmental agencies.

15
16 (a) Notwithstanding W.S. 1-39-101 through 1-39-120,
17 the members of any governmental board, agency, council,
18 commission or governing body are not individually liable
19 for any actions, inactions or omissions by the governmental
20 board, agency, council, commission or governing body.

21
22 (b) This section does not affect individual liability
23 for intentional torts or illegal acts.

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26 *****

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28 Section 2. This act is effective July 1, 2025.

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30 (END)