Investments by Local Political Subdivisions and Municipalities

Overview:

The following summary provides general principles and guidelines concerning Investments by Political Subdivisions and Municipalities. This document is presented in a "frequently asked questions" (FAQ) format. While the document is fairly detailed, remember that every situation is unique and that each situation deserves careful individual review.

To facilitate your use of this document, links within the document will direct your attention to document text and to related documents posted on the Louisiana Legislative Auditor's website and on external websites. For example, by clicking a question under the index section, you may go directly to any text of the FAQ. Within the FAQ, several links will direct you to other text within the FAQ and to relevant external documents. Clicking on an individual question number within the text will return you to the index to allow selection of another question.

Index

I. Investments by Local Political Subdivisions & Municipalities

1. By what authority do political subdivisions make investments of public funds?
2. What is the purpose of R.S. 33:2955?
3. Can local political subdivisions use investment vehicles not listed in R.S. 33:2955?
4. To which entities does R.S. 33:2955 apply?
5. Are local political subdivisions required to develop and adopt an investment policy?
6. When are public funds considered available for investment?
7. Which obligations does R.S. 33:2955 allow a local political subdivision to invest in?
8. Which obligations does R.S. 33:2955 not allow a local political subdivision to invest in?

II. General

9. What limits are imposed on investments of funds listed in R.S. 33:2955?
10. May a local political subdivision combine monies from more than one fund to invest them?
11. May multiple municipalities combine moneys in a cooperative effort for investment purposes?
12. What are the subdivisions allowed to do with the interest earned from these investments?
13. When may an investment authorized by R.S. 33:2955 be liquidated?
14. Are there penalties for investing in a manner not authorized by this Statute?
15. May a municipality or parish subscribe to (purchase) the stock of a corporation?

16. How does a municipality or parish subscribe to (purchase) corporate stock?

17. Is an election required to ratify the ordinance?

18. Who owns the stock so purchased?

19. What additional investments with public funds are authorized by the Louisiana Constitution?

20. What is LAMP?

21. What statute authorizes Hospital Service Districts to invest their funds?

22. By what authority do local political subdivisions make investments of post-employment benefit funds held in trust?

23. Which provisions control deposits in savings and loan associations as investments?

24. Which provisions control deposits in credit unions as investments?

25. Which provisions control deposits in capital stock savings and loan associations and capital stock savings banks as investments?

Attorney General Opinions

I. Investments by Local Political Subdivisions & Municipalities

Q.1. By what authority do local political subdivisions make investments of public funds?

R.S. 33:2955

A.1. **Louisiana Revised Statute 33:2955** is the exclusive statute governing what investments local political subdivisions in Louisiana are allowed to make.

Q.2. What is the purpose of R.S. 33:2955?

A.2. R.S. 33:2955 authorizes and directs all municipalities, parishes, school boards, and any other local political subdivisions of the state to invest available public funds in any general or special fund of the local political subdivision, and any other funds under the control of the local political subdivision which they, in their discretion, determine to be available for investment. The statute enumerates the allowable and exclusive investment vehicles that local political subdivisions may invest in, and the investment policy and procedure they must follow.

Q.3. Can local political subdivisions use investment vehicles not listed in R.S. 33:2955?

A.3. No. R.S. 33:2955 provides the exclusive list of investment vehicles that local political subdivisions may invest in.

Q.4. To which entities does R.S. 33:2955 apply?

A.4. According to the terms of the statute itself, **R.S. 33:2955** applies to:

- Municipalities;
- Parishes;
- School boards; and
- Any other political subdivisions of the state as defined in LA Const. Art. VI, Section 44.

  - La. Const. art. VI, § 44(2) defines **"Political subdivision"** as a **"parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions."**

Q.5. Are local political subdivisions required to develop and adopt an investment policy? R.S. 33:2955(D)

A.5. Yes. In fact, it is mandatory that all local political subdivisions develop an investment policy. All local political subdivisions of the state must develop and adopt an investment policy that details and clarifies investment objectives and the procedures and constraints necessary to reach those objectives. All investment policies should:

- Reflect the mandate to manage public funds prudently.
- Place appropriate emphasis on the goals of safety of principal first, liquidity second, and yield third.
- Establish internal controls for any derivatives in use to ensure that the risks inherent in derivatives are adequately managed. The term derivative as used here is defined to mean any financial instrument created from or whose value depends on the value of one or more underlying assets or indexes of asset value.
  - The Attorney General suggests that **"prior to investing in commercial paper or any other security, the municipality, parish, school board, and other political subdivision review its investment policy and determine that the contemplated investment is in accordance with the political subdivision's investment policy."**

    AG Op. No. 03-0378

Q.6. When are public funds considered available for investment? R.S. 33:2955(A)(2)

A.6. When the treasurer or chief financial officer of the local political subdivision determines that public funds exceed the immediate cash requirements of the fund to which the monies are credited. The criteria used in making this determination are:

- any amount of money exceeding $10,000 that is on demand deposit to the credit of a subdivision, or to the credit of any fund and that is not required to meet an obligation for at least forty-five days; or
- any amount of money exceeding $100,000 that is on demand to the credit of a subdivision or to the credit of any fund and that is not required to meet an obligation for at least fifteen days shall be construed available for investment.

Q.7. Which obligations does R.S. 33:2955 allow a local political subdivision to invest in?

A.7. A local political subdivision may invest in:

- Direct United States Treasury obligations, the principal and interest of which are fully guaranteed by the government of the United States;
  R.S. 33:2955(A)(1)(a)

- Bonds, debentures, notes, or other evidence of indebtedness issued or guaranteed by federal agencies, provided such obligations are backed by the full faith and credit of the United States of America, which obligations include but are not limited to: **R.S. 33:2955(A)(1)(b)(i)**

  - U.S. Export-Import Bank.
  - Farmers Home Administration.
  - Federal Financing Bank.
  - Federal Housing Administration Debentures.
  - General Services Administration.
  - Government National Mortgage Association—guaranteed mortgage- backed bonds and guaranteed pass-through obligations.
  - U.S. Maritime Administration--guaranteed Title XI financing.
  - U.S. Department of Housing and Urban Development.

- Bonds, debentures, notes, or other evidence of indebtedness issued or guaranteed by U.S. government instrumentalities, which are federally sponsored; such obligations include but are not limited to:
  R.S. 33:2955(A)(1) (b)(ii)

  - Federal Home Loan Bank System.
  - Federal Home Loan Mortgage Corporation.
  - Federal National Mortgage Association.
  - Student Loan Marketing Association.
  - Resolution Funding Corporation.

- Direct security repurchase agreements of any federal book-entry-only securities (United States Treasury obligations and bonds, debentures, notes, or other evidence of indebtedness issued or guaranteed by federal agencies). "Direct security repurchase agreement" means an agreement under which the local political subdivision buys, holds for a specified time, and then sells back those securities and obligations.
  R.S.33:2955(A)(1)(c)

- Time certificates of deposit of any bank domiciled or having a branch office in the state of Louisiana, savings accounts or shares of savings and loan associations and savings banks, as defined by R.S. 6:703(16) or (17), or share accounts and share certificate accounts of federally or state-chartered credit unions issuing time certificates of deposit. For those funds made available for investment in time certificates of deposit, the rate of interest paid by the banks shall be established by contract between the bank and the local political subdivision; however, the interest rate at the time of investment shall be a rate not less than fifty basis points below the prevailing market interest rate on direct obligations of the United States Treasury with a similar length of maturity. **R.S. 33:2955(A)(1)(d)(i)**

- Mutual or trust fund institutions that are registered with the Securities and Exchange Commission under the Securities Act of 1933 [15 U.S.C.A. § 77a, *et seq*.] and the Investment Act of 1940, [15 U.S.C.A. § 80a-1, *et seq.*] and that have underlying investments consisting solely of and limited to securities of the United States government or its agencies.
R.S. 33:2955(A)(1)(e)

- Funds invested in accordance with the provisions of R.S. 33:2955(A)(1)(d) shall not exceed at any time the amount insured by the Federal Deposit Insurance Corporation in any one banking institution, or in any one savings and loan association, or National Credit Union Administration, unless the uninsured portion is collateralized by the pledge of securities in the manner provided in R.S. 39:1221.
R.S. 33:2955(A)(1)(f)

- Guaranteed investment contracts issued by a bank, financial institution, insurance company, or other entity having one of the two highest short-term rating categories of either Standard & Poor's Corporation or Moody's Investors Service, provided:

  (1) that no investment may be made except in connection with a financing program for local political subdivisions approved by the State Bond Commission and offered by a public trust having the state as its beneficiary;

  (2) that no investment shall be for a term longer than eighteen months, and

  (3) that any guaranteed investment contract shall contain a provision providing that in the event the issuer of the guaranteed investment contract is at any time no longer rated in either of the two highest short-term rating categories of Standard & Poor's Corporation or Moody's Investors Service, the investing unit of local government

may either be released from the guaranteed investment contract without penalty, or be entitled to require that the guaranteed investment provider collateralize the guaranteed investment contract with any bonds or other obligations, which as to principal and interest constitute direct general obligations of, or are unconditionally guaranteed by, the United States of America, including obligations set forth in Subparagraphs (a) and (b) to the extent unconditionally guaranteed by the United States of America.
R.S. 33:2955(A)(1)(g)

- Investment grade commercial paper issued in the United States, traded in the United States markets, denominated in United States dollars, with a short-term rating of at least A–1 by Standard & Poor's Financial Services LLC or P–1 by Moody's Investor Service, Inc. or the equivalent rating by a Nationally Recognized Statistical Rating Organization (NRSRO).
R.S. 33:2955(A)(1)(h)

- In a BIDCO, as authorized by R.S. 51:2395.1. **R.S. 33:2955(A)(1)(i)**

- Bonds, debentures, notes, or other evidence of indebtedness issued by the state of Louisiana or any of its local political subdivisions, **provided that all of the following conditions are met:** **R.S. 33:2955(A)(1)(j)**

  (i) No local political subdivision may purchase its own indebtedness.

  (ii) The indebtedness shall have a long term rating of Baa3 or higher by Moody's Investors Service, a long term rating of BBB- or higher by Standard & Poor's or a long term rating of BBB- or higher by Fitch, Inc. or a short-term rating of M1G1 or VM1G1 by Moody's Investors Service, a short-term rating of A-1 or A-1+ by Standard & Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

  (iii) The indebtedness has a final maturity, mandatory tender, or a continuing optional tender of no more than five years, except that such five-year limitation shall not apply to either (aa) funds held by a trustee, escrow agent, paying agent, or other third party custodian in connection with a bond issue or (bb) investment of funds held by either a hospital service district, a governmental 501(c)(3), or a public trust authority.

- Bonds, debentures, notes, or other indebtedness issued by a state of the United States of America other than Louisiana or any of another state's local political subdivisions provided that all of the following conditions are met: **R.S. 33:2955(A)(1)(k)**

(i) The indebtedness shall have a long-term rating of A3 or higher by Moody's Investors Service, a long-term rating of A- or higher by Standard & Poor's or a long-term rating of A- or higher by Fitch, Inc., or a short-term rating of M1G1 or VM1G1 by Moody's Investors Service, a short-term rating of A-1 or A-1+ by Standard & Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

(ii) The indebtedness has a final maturity, mandatory tender, or a continuing optional tender of no more than five years, except that such five-year limitation shall not apply to funds held by a trustee, escrow agent, paying agent, or other third-party custodian in connection with a bond issue nor to investment of funds held by either a hospital service district, a governmental 501(c)(3) organization, or a public trust authority.

(iii) Prior to purchase of any such indebtedness and at all times during which the indebtedness is owned, the purchasing Louisiana local political subdivision retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercises trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana, that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the local political subdivision.

- The Attorney General opines that La. R.S. 33:2955A(1)(h) authorizes investment in commercial paper that has been given minimum investment ratings of A-1/P-1. As such, investment by local political subdivisions in commercial paper that is rated at investment grades superior to A-1/P-1 is allowed.

  AG Op. No. 03-0378

- A school board may invest in flexible repurchase agreements provided the underlying securities subject to the agreement consist of the federal book- entry- only securities enumerated in Subparagraphs (a) and (b) of Section 2955(A)(1).

  AG Op. No. 97-0533

■ Bonds, debentures, notes, or other indebtedness issued by domestic United States corporations provided that all of the following conditions are met:

R.S. 33:2955(A)(1)(l)

(i) The indebtedness shall have a long-term rating of Aa3 or higher by Moody's Investors Service, a long-term rating of AA- or higher by Standard & Poor's, or a long-term rating of AA- or higher by Fitch Ratings, Inc.

(ii) The indebtedness has a final maturity, mandatory tender, or a continuing optional tender of no more than five years.

(iii) Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing Louisiana local political subdivision retains the services of an investment advisor registered with the United States Securities and Exchange Commission.

Q.8. Which obligations does R.S. 33:2955 not allow a local political subdivision to invest in?

A.8. A local political subdivision may not invest in:

- Collateralized mortgage obligations (CMO) that have been stripped into interest only or principal only obligations, inverse floaters, or structured notes. "Structured notes" means securities of U.S. government agencies, instrumentalities, or government-sponsored enterprises that have been restructured, modified, and/or reissued by private entities.
  R.S. 33:2955(A)(1)(b)(iii)

- The purchase of certificates of deposits through a financial investment firm/broker, as indirect purchase of CDs through investment firms are not contemplated or intended by R.S. 33:2955. The local political subdivision may however contract separately with an investment firm or broker to receive investment advice under a professional services contract. **AG Op. No. 15-0102**

II. General

Q.9. What limits are imposed on investments of funds listed in R.S. 33:2955?
R.S. 33:2955(A)(2)

A.9. Investment of funds in mutual or trust fund institutions are limited to twenty-five percent of the monies considered available for investment. See **Q.6.**

Q.10. May a local political subdivision combine monies from more than one fund to invest them? **R.S. 33:2955(A)(3)**

A.10. Yes, a local political subdivision may combine monies from different funds in order to invest them. A local political subdivision may combine monies from several funds in order to invest the monies at a better rate of return.

Q.11. May multiple municipalities combine monies in a cooperative effort for investment purposes?

A.11. Yes, this investment is permissible under the Local Services Law, R.S. 33:1321-1360, which authorizes local political subdivisions to engage jointly in the exercise of any power, provided that one of the local political subdivisions is authorized to exercise that power. Further, Art. VII, Sec. 14(C) of the Louisiana Constitution authorizes the State and its local political subdivisions, for a public purpose, to engage in cooperative endeavors with each other. Of course, the pooled monies may only be invested in those types of securities that are allowable investments for local political subdivisions. However, the pool would have to be structured so that one local political subdivision could not assume the losses of another local political subdivision, as that assumption would violate the Art. VII, Sec. 14(A) prohibition of the donation, loan or pledge of public funds.

AG Op. No. 95-0442
AG Op. No. 92-0192

- Local political subdivisions may enter into cooperative endeavors to establish a local government investment pool to be administered by the LAMP, Inc.

AG Op. No. 94-0186

- …political subdivisions of this state may enter into cooperative endeavors with each other, under authority of La. R.S. 33:1321[– 1360], to contract for investment services and invest in investment pools to be administered by the Office of the State Treasurer.

AG Op. No. 95-0442
AG Op. No. 94-0186
AG Op. No. 92-0192
AG Op. No. 02-0404

Q.12. What are the subdivisions allowed to do with the interest earned from these investments? **R.S. 33:2955(B)**

A.12. The interest earned on bonds, notes or certificates, time certificates of deposit, or mutual or trust fund investments must be credited to the fund from which the monies were acquired; or it may be applied to the payment of the principal and interest of the outstanding bonded indebtedness.

- Interest earned on investment of public funds belongs to the owners of the funds and not to the public official who handles or distributes the funds. *Amiss v. State,* App. 1 Cir.1976, 340 So.2d 1085.

Q.13. When may an investment authorized by R.S. 33:2955 be liquidated? **R.S. 33:2955(C)**

A.13. At any time deemed advisable the subdivision may cash and liquidate any of the investments authorized by R.S. 33:2955. The proceeds of any liquidation are credited to the fund from which the authorized investments were originally purchased.

Q.14. Are there penalties for investing in a manner not authorized by this Statute? **R.S. 33:2955(E)**

A.14. Yes. The investment of monies by a municipality, parish, school board, or other local political subdivision of the state in violation of R.S. 33:2955 constitutes an intentional performance of a duty in an unlawful manner and may be prosecuted pursuant to R.S. 14:134 (Malfeasance in office).

Q.15. May a municipality or parish subscribe to (purchase) the stock of a corporation? **R.S. 33:2951**

A.15. Municipalities and parishes may subscribe to (purchase) the stock of corporations undertaking works of internal improvement. What "works of internal improvement" means is not defined. No public entity may otherwise subscribe to the stock of a private corporation (La. Const. art. VII, § 14(A)).

Q.16. How does a municipality or parish subscribe to (purchase) corporate stock? **R.S. 33:2952**

A.16. A municipality or parish subscribes to (purchases) corporate stock by ordinance. All ordinances passed for such subscriptions must contain the following provisions:

- A statement of the number and amount of shares proposed to be subscribed.
- The levy of a tax on the immovables situated in the parish or municipal corporation, sufficient to pay the amount of the subscription, and specifying the rate of taxation, and the time when it shall be payable.

Q.17. Is an election required to ratify the ordinance? **R.S. 33:2953**

A.17. Yes. No ordinance provided for in R.S. 33:2951 and R.S. 33:2952 can take effect until it has been approved by a majority of the voters on whose property the tax is proposed to be levied, at an election to be held specially for that purpose. The police jury or municipal corporation prescribes the manner of holding the election, and shall furnish to the commissioners a certified list of the authorized voters. The

election shall be preceded by a notice for thirty days, published in one or more newspapers in the parish or municipal corporation. If the ordinance is rejected by a majority of the voters, it may be resubmitted for reapproval at any subsequent period, at intervals of not less than six months.

Q.18. Who owns the stock so purchased? **R.S. 33:2954**

A.18. Stock so purchased belongs to the taxpayers. The stock subscribed (purchased) does not belong to, nor is it administered by the parish or municipal corporation by which the subscription is made, but shall belong to the taxpayers. The tax receipt of each taxpayer shall entitle the taxpayer to a certificate, transferable by delivery, from the corporation to which subscription has been made, for an amount equal to the amount of his tax paid.

Q.19. What additional investments with public funds are authorized by the Louisiana Constitution? **LSA-Const. Art. 7, § 14(B)(10)**

A.19. LSA-Const. Art. 7, § 14(B)(10) allows for the investment in stocks of a portion of the Rockefeller Wildlife Refuge Trust and Protection Fund, created under the provisions of R.S. 56:797, and the Russell Sage or Marsh Island Refuge Fund, created under the provisions of R.S. 56:798, not to exceed thirty-five percent of each fund.

LSA-Const. Art. 7, § 14 (11) allows for the investment in stocks of a portion of the state-funded permanently endowed funds of a public or private college or university, not to exceed thirty-five percent of the public funds endowed.

LSA-Const. Art. 7, § 14 (12) allows for the investment in equities of a portion of the Medicaid Trust Fund for the Elderly created under the provisions of R.S. 46:2691 - 2692, not to exceed thirty-five percent of the fund.

Q.20. What is LAMP? **R.S. 33:1321-1360**

A.20. The Louisiana Asset Management Pool (LAMP) was created pursuant to Art. VII, § 14(C) of the Louisiana Constitution and the Local Services Law, LSA-R.S. 33:1321– 1360 as a pooled investment program, not as an investment, itself. Each local political subdivision enters into a cooperative agreement for the purpose of operating a pooled investment program. LAMP receives deposits from each local political subdivision and essentially functions as a professional financial advisor to those local political subdivisions that elect to participate and become depositing members within the pool. The local political subdivisions that deposit money in LAMP retain a separate ownership interest in the investments purchased.

AG Op. No. 95-0442

(See LAMP's website at http://www.lamppool.com.) LAMP's investment guidelines strictly follow R.S. 33:2955. (See **AG Op. No. 95-0442** describing LAMP)

Q.21. What statute authorizes Hospital Service Districts to invest their funds?

A.21. R.S. 46:1073.1, allows hospital service districts as defined in R.S. 46:1072, other than a hospital owned by the state, to invest their funds in the same manner as provided by law for investment of funds of the Louisiana State Employees Retirement System, including but not limited to R.S. 11:263; however, any such investment may be made only in compliance with rules and regulations established by the hospital service district commission and in compliance with the provisions of R.S. 11:263 and any other law that provides for investments in which funds of the Louisiana State Employees Retirement System may be invested.

R.S. 11:263, relative to LASERS' and other retirement systems' investments, makes the prudent-person rule applicable to retirement systems. The statute, which also provides for other restrictions, should be consulted prior to making such investments.

In interpreting this statute, the Attorney General has opined that *"Under La. Const. art. VII, § 14(A), Hospital Service District No. 1 of the Parish of Terrebonne, may not purchase, either directly or through mutual funds, stocks with public funds. To the extent La. R.S. 46:1073.1 purports to allow public funds to be invested in stocks, the statute is unconstitutional."* **AG Op. No. 13-0138**; **See also, AG Op. No. 19-0077** wherein the Attorney General states that *"[W]e note that this grant of investment authority is not without limitation. Hospital service districts must still comply with the provisions of La. R.S. 33:2955(D), as such districts meet the definition of "political subdivision," as defined in La. Const. art. VI §44 of the Louisiana Constitution. In addition, as this office has previously opined, La. R.S. 46:1073.1 should not be construed to permit hospital service districts to invest public funds in stocks of private companies."*

Q.22. By what authority do local political subdivisions make investments of post-employment benefit funds held in trust?

A.22. In addition to the securities enumerated in R.S. 33:2955, post-employment benefit funds held in a trust established pursuant to R.S. 33:5161 may be invested in any of the securities enumerated in R.S. 33:5162.

Post-Employment benefits under R.S. 33:5161 are defined as health care, life insurance, or any other benefit, not including pension benefits, provided by the local political subdivision to a person who is no longer employed by such local political subdivision.

Post-Employment benefit funds held in a trust established under any other state or federal law, may only be invested in the securities enumerated in R.S. 33:2955.

AG Op. No. 15-0067

Q.23. Which provisions control deposits in savings and loan associations as investments? **R.S. 6:748**

A.23. The State of Louisiana, its agencies and any other political subdivision of the State, are authorized to invest funds in savings accounts and shares or demand deposits of an association.

These investments in any one savings and loan association or savings bank may not exceed the amount insured by the FDIC ($250,000), unless the uninsured portion is collateralized by the pledge of securities in the manner provided by R.S. 49:321, R.S. 33:2929, R.S. 39:1221, R.S. 39:1242, or other provision of law.

Note: Act 195 of the 2020 Regular Session amended R.S. 49:321 to expand the types of instruments that may be required as collateral for deposit of state funds into a depository or fiscal agent bank to include:

1. Any obligation, security, or investment that the State may invest in directly under present law (R.S. 49:327).
2. State bonds, debentures, notes or other indebtedness of a certain minimum credit rating issued by a state other than Louisiana or such other state's political subdivisions.
3. Bonds, debentures, notes, or other indebtedness of a certain minimum credit rating issued by domestic U.S. corporations.

Q.24. Which provisions control deposits in credit unions as investments?

R.S. 6:652.2

A.24. The State of Louisiana, its agencies and any other political subdivision of the State, are authorized to invest funds in share accounts or share certificate accounts of credit unions. The investments in any one federally or state chartered credit union may not exceed the sum of the primary amount insured by the National Credit Union Administration and the excess amount insured by a private sector insurance provider or a deposit insurance corporation in any one federally or state chartered credit union, in lieu of collateralization by the pledging of securities in the manner provided by R.S. 39:1221 or R.S. 49:321. Once the share accounts or share certificate accounts that R.S. 6:652.2 **makes legal investments** are deposited, they shall be acceptable as security without the need for other security.

Note: Act 195 of the 2020 Regular Session amended R.S. 49:321 to expand the types of instruments that may be required as collateral for deposit of state funds into a depository or fiscal agent bank to include:

1. Any obligation, security, or investment that the State may invest indirectly under present law (R.S. 49:327).

2. State bonds, debentures, notes or other indebtedness of a certain minimum credit rating issued by a state other than Louisiana or such other state's political subdivisions. Bonds, debentures, notes, or other indebtedness of a certain minimum credit rating issued by domestic U.S. corporations.

Q.25. Which provisions control deposits in capital stock savings and loan associations and capital stock savings banks as investments? R.S. 6:949

A.25. Any state or local depositing authority is authorized to invest or deposit funds in savings and/or demand accounts of capital stock savings and loan associations and capital stock savings banks, to the same extent as are authorized national or state banks, and without limitations as to whether or not the amount invested or deposited exceeds at any time the amount insured by the FDIC. Capital stock associations and capital stock savings banks are specifically authorized to be depositories and fiscal agent.

Attorney General's Opinions

- The provisions of R.S. 39:2955(A)(1) concerning the minimum rating of certain investments that may be purchased by political subdivisions are inapplicable to hospital service districts. Rather, the investment of funds of hospital service districts are governed by R.S. 46:1073.1.
  AG Op. No. 19-0077

- R.S. 33:2955(A)(1)(d)(i) contemplates the direct purchase of a CD from a financial institution; however our reading of R.S. 33:2955(A)(1)(d)(i) does not reveal any authority for a local political subdivision to purchase a CD indirectly through a broker or brokerage firm. Thus, it appears that R.S. 33:2955(A)(1)(d)(i) does not authorize local political subdivisions to purchase brokered CDs from a broker or brokerage firm.
  AG Op No. 15-0102 *and* **AG Op. No. 13-0199**

- We are of the opinion that the funds belonging to LSERS, as well as any assets resulting from the investment of these funds, are neither public or state funds nor are they public or state property. As such, we believe the management of such property is not controlled by the provisions of R.S. 39:321 [- 1360] and it is our opinion that LSERS does not fall under

the jurisdiction of the DOA through the LPAA for purposes of R.S. 39:321 – [1360] **AG Op. No. 09-0070**

- Addresses whether public bodies may utilize the Certificate of Deposit Account Registry Service and the Temporary Liquidity Guarantee Program. Recalls AG Op. No. 04-0252 in full and AG Op. No. 83-9 in part.
  AG Op. No. 09-0073A

- Public bodies may independently establish and employ irrevocable trusts that hold monies for future payment of post-employment benefits other than pensions, provided those monies are invested in funds permitted by law.
  AG Op. No. 07-0066
  AG Op. No. 15-0012
  AG Op. No. 17-0176

- Water district must invest surplus funds in obligations enumerated in LSA-R.S. 33:2955. **AG Op. No. 93-0172**

- Utilities may make commercial paper investments that meet specific statutory requirements. **AG Op. No. 03-0378**

- A school board may invest flexible repurchase agreements provided the underlying securities subject to the agreement consists of the federal book-entry- only securities enumerated in Subparagraphs (a) and (b) of Section 2955(A)(1). **AG Op. No. 97-0533**

- Hospital service district hospitals may enter into cooperative endeavor agreements with other public and private hospitals for pooled investment services. **AG Op. No. 02-0404**

- Local political subdivision can invest in a mutual fund that invests in repurchase agreements involving U.S. Treasury obligations if mutual fund is organized as Massachusetts business trust.
  AG Op. No. 97-0057 cited in Footnote 2 of AG Op. No. 03-0378

- It is the opinion of this office that investing in Massachusetts business trust mutual funds is tantamount to investing in direct United States government securities. Opinion No. 88-546 is hereby modified to provide that the above described investment does not violate Article VII, Section 14(A) of the Constitution.
  AG Op. No. 88-0546A cited in Footnote 2 of AG Op. No. 03-0378

- The prohibited types of obligations found in Section 2955(A)(b)(iii) are those securities which may have been permissible under the provisions of Section 2955(A)(b)(i) and (ii), except that the security is either a collateralized mortgage obligation ("CMO"), an inverse floater or a structured note. The authority to invest in a direct United States Treasury obligation is found in Section 2955(A)(1)(a), which was not amended in the 1995 session, and which provides that local political subdivisions may invest in "direct United States Treasury obligations, the principal and interest of which are fully guaranteed by the government of the United States". Thus, the prohibition in Section 2955(A)(1)(b)(iii) only applies to those obligations described in (i) and (ii) of Subsection (b), not the obligations described in Subsection (a). Accordingly, local governments may invest in STRIPS or zero coupon securities issued directly by the U.S. Treasury. **AG Op. No. 95-0442**

- As long as the investment is a bond, debenture, note, or other evidence of indebtedness issued or guaranteed by "federal agencies and ... are backed by the full faith and credit of the United States of America..." [LSA-R.S. 33: 2955(A)(1)(b)(i)] or is a bond, debenture, note, or other evidence of indebtedness issued or guaranteed by "U. S. government instrumentalities, which are federally sponsored ..." [LSA-R.S. 33:2955(A)(1)(b)(ii)], and the investment is not a collateralized mortgage obligation which has been stripped into interest only or principal only obligations, an inverse floater or a structured note, it is a permissible investment under the Act 1126.
AG Op. No. 95-0442

- Neither in the law nor in the marketplace is the United States Treasury considered to be a government agency, instrumentality or government-sponsored enterprise; therefore, the prohibition in Section 2955(A)(1)(b)(iii) would not apply. However, in order for the security to be a permissible investment under Section 2955(A)(1)(a) it must be a direct United States Treasury obligation, the principal and interest of which are fully guaranteed by the government of the United States. If after restructuring, the security is no longer a direct U.S. Treasury obligation, it is not a permissible investment under Section 2955(A)(1)(a).
AG Op. No. 95-0442

- Section 2955 is silent as to whether the securities must be held by the government unit; however, because most securities are now issued "book-entry-only" rather than certificated, the book-entry-only securities must be held by a third-party custodian under a fiduciary relationship.
AG Op. No. 95-0442

- Section 2955(A)(1)(e) authorizes investments in "mutual or trust fund institutions which are registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Act of 1940, and which have underlying investments consisting solely of and limited to securities of the United States government or its agencies." Furthermore, this office has opined that only mutual funds created as a Massachusetts business trust, are acceptable investments under Article VII, Section 14 of the Louisiana Constitution. See AG Op. No. 88-0546, as modified by AG Op. No. 88-546(A). Thus, in order to be a permissible investment, the money market fund must meet the criteria of Section 2955(A)(1)(e) and be created as set forth in AG Op. No. 88-546(A).
AG Op. No. 95-0442

- Louisiana Asset Management Pool(LAMP) was created pursuant to Art. VII, Sec. 14(C) of the Louisiana Constitution and the Local Services Law, La. R.S. 33:1321 [1360]- as a pooled investment program, not as an investment, itself. Each local political subdivision enters into a cooperative agreement for the purpose of operating a pooled investment program. LAMP receives deposits from each local political subdivision and essentially functions as a professional financial advisor to those local political subdivisions which elect to participate and become depositing members within the pool. The local political subdivisions which deposit money in LAMP retain a separate ownership interest in the investments purchased. See AG Op. No. 94-0186. **AG Op. No. 95-0442 (also discusses other securities**.)