

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Chaffin**

A Bill

ACT 583 OF 1993
SENATE BILL 606

For An Act To Be Entitled

8 "AN ACT TO AUTHORIZE CITIES, COUNTIES, SCHOOL DISTRICTS
9 AND COMMUNITY COLLEGE DISTRICTS TO JOIN TOGETHER TO CREATE
10 JOINT INVESTMENT TRUSTS TO ENHANCE THE INVESTMENT
11 OPPORTUNITIES AVAILABLE TO THEM AND TO INCREASE THEIR
12 INVESTMENT EARNINGS; PRESCRIBING OTHER MATTERS RELATING
13 THERETO; AND DECLARING AN EMERGENCY; AND FOR OTHER
14 PURPOSES."

Subtitle

16
17 "TO CREATE JOINT INVESTMENT TRUSTS FOR CITIES, COUNTIES,
18 SCHOOL DISTRICTS AND COMMUNITY COLLEGE DISTRICTS."

19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Title. This act may be cited as the "Local Government Joint
23 Investment Trust Act".

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25 SECTION 2. Purpose. The purpose of this act is to permit local
26 governments in Arkansas to join together to establish trusts for joint
27 investment of moneys not currently needed so as to enhance their investment
28 opportunities and increase investment earnings. This act shall be deemed to
29 provide an additional and alternative method of investment for local
30 governments. It is supplemental to existing investment authority.

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32 SECTION 3. Definitions. For purposes of this act, the term "local
33 government" shall mean any city, county, school district or community college
34 district of this state. The term "local government association" shall mean
35 the Arkansas Municipal League, the Association of Arkansas Counties, the
36 Arkansas School Boards Association or any similar organization whose

1 membership is composed of local governments or their elected officials. The
2 term "private agency" shall mean any individual or any form of business
3 organization authorized under the laws of this or any other state. The term
4 "participant" shall mean a local government which is a party to a trust
5 agreement. The term "trust agreement" shall mean the agreement, indenture or
6 other instrument creating a trust pursuant to this act, together with any
7 supplements thereto.

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9 SECTION 4. Creation of trusts. Any ten (10) or more local governments
10 may create a trust under this act for the purpose of providing for the joint
11 investment of moneys not currently needed by the local governments creating
12 the trust and by other local governments which become parties to the trust.
13 Each trust shall be created by trust agreement. Appropriate action by
14 ordinance, resolution or otherwise pursuant to law of its governing body shall
15 be necessary for any local government to become a party to a trust agreement.

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17 SECTION 5. Terms of trust agreement. Each trust agreement shall
18 specify the following:

19 (1) Its duration.

20 (2) The number, qualifications, method of election and terms of the
21 trustees which shall serve as the governing body of the trust. Each trust
22 shall have a minimum of seven (7) trustees. Only full time employees of a
23 participant or of a local government association may serve as trustees. A
24 majority of the trustees must be employees of participants. Each trustee
25 shall be elected by the participants for a term of not to exceed three (3)
26 years. The terms of office shall be staggered so that at least one-third
27 (1/3) of the trustees are elected each year. Each participant shall be
28 entitled to one (1) vote in each election of trustees.

29 (3) The qualifications, terms and conditions necessary for additional
30 local governments to become parties to the trust.

31 (4) The terms and conditions under which local governments may withdraw
32 as parties to the trust, provided that any party shall have the unconditional
33 right to withdraw upon not more than ninety (90) days_ notice.

34 (5) The permissible methods for acquiring, holding and disposing of
35 real and personal property used in the operation of the trust.

1 (6) The maximum amount of funds of participants the trust may accept
2 for investment.

3 (7) The permissible methods to be employed in accomplishing the partial
4 or complete termination of the trust and for disposing of property upon the
5 partial or complete termination.

6 (8) The terms and conditions under which the trust agreement may be
7 amended and supplemented.

8 (9) Any other necessary and proper matters.

9 Each addition of a local government as a party to a trust, each withdrawal of
10 a local government as a party to a trust and each amendment or supplement to a
11 trust agreement shall be evidenced by a written supplement to the trust
12 agreement.

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14 SECTION 6. Filing of trust agreement and supplements thereto.

15 No trust agreement and no supplement to a trust agreement shall be
16 effective until it is filed with the Secretary of State.

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18 SECTION 7. Common trust funds; individual investment accounts.

19 Each trust created pursuant to this act shall establish one (1) or more
20 common trust funds. Moneys held for the credit of a common trust fund shall
21 be invested only in authorized common trust fund investments. Assets held for
22 the credit of a common trust fund shall be divided into units of participation
23 and each participant who invests in the common trust fund shall be the owner
24 of such units in proportion to the amount of its investment. Such units shall
25 be authorized investments for participants. If authorized by its trust
26 agreement, and notwithstanding any other provision of state law, a trust may
27 also act as trustee of individual investment accounts of participants. Moneys
28 held for the credit of an individual investment account shall be invested only
29 in obligations which are, at the time of investment, authorized investments
30 for the participant under applicable law, excluding this act.

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32 SECTION 8. Authorized common trust fund investments. A trust created
33 pursuant to this act shall invest moneys held for the credit of a common trust
34 fund only in the following authorized investments:

35 (1) Direct obligations of, or obligations on which the timely payment

1 of principal of and interest on its fully guaranteed by, any agency or
2 instrumentality of the United States of America.

3 (2) Certificates of deposit or time deposits of a bank or savings and
4 loan whose principal office is located in the state of Arkansas, to the extent
5 that such deposits and the interest thereon are either (a) insured by the
6 Federal Deposit Insurance Corporation, or (b) secured by a perfected first
7 security interest in collateral consisting of obligations of the type
8 described in paragraph 1 or paragraph 2 of this Section 8 and having a fair
9 market value equal to not less than one hundred ten percent (110%) of the
10 amount secured. The collateral securing the deposit must be held by the trust
11 or by an independent third party acting solely as agent for the trust, the
12 collateral must be held free of any lien or claim by a third party (other than
13 a party acting as agent for the trust) and the securities must be held
14 pursuant to an agreement providing that the trust will value the collateral no
15 less frequently than monthly and will liquidate the collateral if any
16 deficiency in its required market value is not restored within two (2)
17 business days of such valuation.

18 (3) Securities of the type described in paragraphs 1 or 2 of this
19 Section 8, purchased under agreements to resell such securities, provided a
20 specific written repurchase agreement governs the transaction, the securities
21 are held by the trust or an independent third party acting solely as agent for
22 the trust, the securities are held free and clear of any lien or claim by a
23 third party (other than a party acting as agent for the trust), the trust is
24 the holder of a perfected first security interest in the securities, the fair
25 market value of the securities in relation to the amount of the repurchase
26 obligation, including principal and interest, is equal to at least one hundred
27 two percent (102%), and the repurchase agreement provides that the trust will
28 value the securities no less frequently than monthly and will liquidate the
29 securities if any deficiency in their required market value is not restored
30 within two (2) business days of such valuation.

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32 SECTION 9. Power to own property and contract. A trust created under
33 this act shall, subject to any limitations in the trust agreement, have power
34 to own real and personal property necessary to carry out its functions and to
35 contract with local government associations and private agencies for necessary

1 services in carrying out its functions. Without limiting the generality of
2 the foregoing, a trust may be authorized to employ an investment advisor, a
3 trust administrator, a custodian of investments and a person or firm to market
4 trust investment programs.

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6 SECTION 10. Records. Each trust shall cause proper books of account
7 and records to be kept in which complete and correct entries shall be made of
8 all transactions relating to its operations. Such books shall be available
9 for inspection by each participant at reasonable times. Each trust shall have
10 these records audited by the Legislative Joint Auditing Committee or by a
11 certified public accountant once each year. A copy of the audit shall be
12 furnished to each participant and a copy shall be filed with the Secretary of
13 State.

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15 SECTION 11. All provisions of this act of a general and permanent
16 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
17 Code Revision Commission shall incorporate the same in the Code.

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19 SECTION 12. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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25 SECTION 13. All laws and parts of laws in conflict with this act are
26 hereby repealed.

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28 SECTION 14. EMERGENCY. It is hereby found and determined by the
29 General Assembly that there is currently no authority for local governments to
30 invest in common trust fund units of public trusts, and that such authority
31 would make it possible for local governments to invest their cash balances
32 more efficiently and earn greater investment returns. Therefore, an emergency
33 is hereby declared to exist and this act being necessary for the immediate
34 preservation of the public peace, health and safety shall be in full force and
35 effect from and after its passage and approval.

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APPROVED: 03/18/93