

IN THE COURT OF COMMON PLEAS  
DELAWARE COUNTY, OHIO

DELAWARE COUNTY  
BOARD OF COMMISSIONERS  
91 North Sandusky Street  
Delaware, Ohio 43015

Plaintiff,

v.

DONALD E. RANKEY, JR.  
DELAWARE COUNTY TREASURER  
145 North Union Street  
Delaware, Ohio 43015

Defendant.

25 - CV H - 030273

Case No.

Judge Marianne T. Hemmeter

CLERK OF COURTS  
DELAWARE COUNTY, OHIO  
COMMON PLEAS COURT  
FILED  
2025 MAR - 6 AM 11:04

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COMPLAINT FOR DECLARATORY JUDGMENT AND  
PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

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Now comes Plaintiff, the Delaware County Board of Commissioners (the "Board"), by and through counsel, and for its claims for declaratory judgment and preliminary and permanent injunctive relief against Defendant Donald R. Rankey, Jr., the Delaware County Treasurer (the "Defendant"), alleges the following:

**INTRODUCTION**

1. The Ohio General Assembly has enacted laws governing the deposit and investment of public moneys in the treasury of a county, creating a comprehensive statutory scheme to ensure the best and safest return of funds available to the county for deposit or investment.

2. A critical component of this statutory scheme is the establishment of “a county investment advisory committee consisting of three members: two county commissioners to be designated by the board of county commissioners, and the county treasurer.” R.C. 135.341(A). The investment advisory committee shall “establish written county investment policies and shall meet at least once every three months, to review or revise its policies and to advise the investing authority on the county investments in order to ensure the best and safest return of funds available to the county for deposit or investment.” R.C. 135.341(C).

3. With certain statutory exceptions, the county treasurer shall serve as the investing authority for the county, and, as the investing authority, the county treasurer shall invest the inactive moneys of the county in accordance with applicable law and the advice or written policies of the county investment advisory committee. The discretion of the county investing authority to invest or deposit the county's inactive moneys under R.C. 135.35, R.C. 135.353, and R.C. 135.45 is subject to the policies and limitations established by the county investment advisory committee.

4. R.C. 135.341 does not establish specific means by which a county investment advisory committee ensures the safest and best return of invested moneys. Accordingly, in carrying out its duties under R.C. 135.341(C), a county investment advisory committee must exercise reasonable discretion. The county investment advisory committee may restrict the types of instruments in which the county investing authority may invest or deposit the county's inactive moneys. Because a county investment advisory committee may restrict the types of instruments in which the county investing authority may invest or deposit the county's inactive moneys, a county investment

advisory committee may also amend its investment policies to permit an investment it had previously restricted.

5. The investing authority is required to adhere to the investment policies established by the county investment advisory committee, which is a body designed for a board of county commissioners and a county treasurer to cooperate and interact with each other in fulfilling the financial duties and responsibilities assigned to them by the General Assembly. The cooperation and interaction envisioned by this statutory plan necessarily means that the same public officers will determine which investments will be permitted by a county's investment policies, approve and adopt those investment policies, and execute the investments authorized by those policies. The pertinent statutory framework anticipates and requires cooperation between a board of county commissioners and a county treasurer in establishing investment policies and, thereafter, in investing the county's moneys.

6. Pursuant to R.C. 135.34, "[t]he board of county commissioners may review semiannually the investment procedures of the investing authority and the investing authority shall provide the necessary information to accomplish such review. When it is determined that the investing authority has failed to invest the inactive moneys of the county as provided by law, or in documented substantial, material, and continuing disregard of the advice or written policies of the county investment advisory committee pursuant to [R.C. 135.341], the board shall inform, by written notice, the investing authority of its finding. When, at the time of the next succeeding semiannual review, the board finds that such procedures, as included in the written notice, have not been corrected, the board may designate, by resolution, the board as a whole, one of its

members, or one of its employees as the investing authority, and thereafter, until such action is rescinded by resolution of the board, the investing authority shall be as designated by the board.”

7. Through its members on the county investment advisory committee and its authority under R.C. 135.34, a board of county commissioners directs the manner in which the county’s moneys are invested by the county treasurer. The county treasurer, as the county investing authority, adheres to the written county investment policies within his or her reasonable discretion. If the board of commissioners determines that the treasurer has failed to invest the moneys of the county as provided by law, or in substantial disregard of the written county investment policies, the board of commissioners may designate a different county investing authority. Thus, although the county treasurer, as the county investing authority, has discretion in making certain county investment decisions, that discretion is subject to the policies and limitations established by the county investment advisory committee.

8. A county investment advisory committee has significant authority to establish the county’s investment policies. The county treasurer, as the county investing authority, is required to adhere to the investment policies established by the county investment advisory committee, lest the board of county commissioners remove the treasurer from his role as investing authority for failing to act within the scope of the county’s investment policies.

#### **PARTIES**

9. The Board is the three-member board of county commissioners for Delaware County, Ohio, formed and existing pursuant to R.C. Chapter 305 and vested

with the authority to review investment procedures and enforce investment policies under R.C. 135.34. The Board's duly elected members are Jeff Benton, Barb Lewis, and Gary Merrell.

10. The Defendant is the duly elected county treasurer for Delaware County, Ohio, serving as the investing authority for Delaware County for purposes of R.C. 135.31, *et seq.*

### **JURISDICTION, VENUE, AND STANDING**

11. This Court has personal jurisdiction over the Defendant because he holds office and performs his official duties within Delaware County, Ohio.

12. This Court has subject-matter jurisdiction over this matter, including under Article IV of the Ohio Constitution, R.C. Chapter 2721, and R.C. Chapter 2727.

13. Venue is proper in this Court, pursuant to Rule 3(C) of the Ohio Rules of Civil Procedure.

14. The Board has standing to assert the claims stated herein pursuant to its authority under R.C. 135.34 and in order to protect the financial interests of Delaware County, pursuant to R.C. 305.12.

### **FACTUAL ALLEGATIONS**

15. The Delaware County Investment Advisory Committee (the "Committee") consists of three members: the Defendant and two members of the Board, Commissioners Benton and Lewis.

16. Pursuant to R.C. 135.341, the Committee has adopted a Delaware County Investment Committee Investment and Depository Policy, a copy of which is attached hereto as EXHIBIT A (the "Policy").

17. Section V. of the Policy generally permits the Defendant to invest in any instrument or security authorized in R.C. Chapter 135, including securities issued by other political subdivisions.

18. At an open meeting held on May 11, 2023, the Committee approved an amendment to the Policy, stating an exception to the general permission to invest in any instrument or security authorized in R.C. Chapter 135, as follows: “The Treasurer shall not purchase directly by private placement any bonds or other obligations of political subdivisions or other public entities, unless prior to the purchase the Investment Advisory Committee approves and authorizes the purchase by a unanimous vote of the full membership of the Investment Advisory Committee.” Section V.B of the Policy. A copy of the amendment to the Policy is attached hereto as EXHIBIT B.

19. The Committee duly approved the amendment to the Policy by a unanimous vote, including the Defendant’s vote in favor of the amendment.

20. Subsequent to the Committee approving the amendment to the Policy, the Defendant has asserted that Section V.B. of the Policy is unlawful.

21. Despite the Defendant’s subsequent objections to Section V.B. of the Policy, the Committee has not rescinded its action taken on May 11, 2023, and Section V.B. of the Policy remains in full force and effect.

22. As a result of the Defendant’s objections, on May 20, 2024, the Committee requested a legal opinion from the Delaware County Prosecutor, who advised that the amendment of the Policy at the Committee’s meeting on May 11, 2023, was “legally proper” and “legally enforceable.” A copy of the opinion is attached hereto as EXHIBIT C.

23. The Committee is a subcommittee of the Board, and the Board has relied on the opinion given to the Committee when conducting its review of investment procedures and considering enforcement of the Committee's policies, pursuant to R.C. 135.34.

24. On or about June 1, 2024, the Defendant purchased bonds issued by the Delaware County Finance Authority in the principal amount of \$6,800,000, in support of a development project known as Jennings Sports Park (the "Jennings Bonds").

25. The Jennings Bonds are subject to the requirements of Section V.B. of the Policy because they were purchased directly by private placement and are bonds or other obligations of a political subdivision or other public entity.

26. The Defendant did not present the proposed purchase of the Jennings Bonds to the Committee for review and approval.

27. The Committee did not approve and authorize the purchase of the Jennings Bonds.

28. On or about June 4, 2024, the Defendant purchased bonds issued by the Delaware County Finance Authority in the principal amount of \$2,451,000, in support of a maintenance facility project for Brown Township, Delaware County, Ohio (the "Brown Township Bonds").

29. The Brown Township Bonds are subject to the requirements of Section V.B. of the Policy because they were purchased directly by private placement and are bonds or other obligations of a political subdivision or other public entity.

30. The Defendant did not present the proposed purchase of the Brown Township Bonds to the Committee for review and approval.

31. The Committee did not approve and authorize the purchase of the Brown Township Bonds.

32. Upon learning of the purchases of the Jennings Bonds and the Brown Township Bonds, the Board's legal counsel submitted public records requests to the Delaware County Finance Authority and the Defendant for copies of certain public records related to the transactions. A representative of the Delaware County Finance Authority promptly provided copies of the transcripts of the bond proceedings. The Defendant did not acknowledge receipt of or respond in any way to the public records request.

33. Pursuant to R.C. 135.35(L), the Defendant is required to keep a complete record of all purchases of obligations and securities and file a monthly portfolio report with the Board.

34. The Defendant filed a monthly portfolio report with the Board that included the purchases of the Jennings Bonds and Brown Township Bonds.

35. Concerned by the purchases contrary to Section V.B. of the Policy and the Defendant's continued solicitations for additional purchases, on August 29, 2024, the Board adopted a resolution issuing a letter to Delaware County elected officials to inform them of the Committee's requirements in Section V.B. of the Policy. A copy of the letter is attached hereto as EXHIBIT D.

36. Pursuant to R.C. 135.34, on September 16, 2024, the Board conducted a semi-annual review of the investment procedures of the Defendant for the time period of January 1, 2024, through June 30, 2024, based on the Defendant's monthly portfolio reports and the public records provided by the Delaware County Finance Authority. As a



result of the review, the Board adopted Resolution No. 24-759, issuing written findings that the Defendant “failed to invest the inactive moneys of the county as provided by law, or has invested the inactive moneys of the county in documented, substantial, material, and continuing disregard of the advice or written policies of the Committee, specifically with respect to investments that are in violation of Section V.B. of the [Policy].” A copy of Resolution No. 24-759 is attached hereto as EXHIBIT E.

37. Based on the Defendant’s violations, the Board has genuine concern for harm to Delaware County, including risk to public funds and damage to Delaware County’s current bond credit ratings, which are AAA by S&P Global and Aaa by Moody’s.

38. The Defendant was provided written notice of the Board’s findings.

39. Unbeknownst to the Board, on or about August 1, 2024, the Defendant had purchased bonds issued by the Berkshire, Sunbury, Trenton & Galena Fire District in the principal amount of \$4,500,000, in support of a fire station facility project (the “BST&G Bonds”).

40. The BST&G Bonds are subject to the requirements of Section V.B. of the Policy because they were purchased directly by private placement and are bonds or other obligations of a political subdivision or other public entity.

41. The Defendant did not present the proposed purchase of the BST&G Bonds to the Committee for review and approval.

42. The Committee did not approve and authorize the purchase of the BST&G Bonds.

43. The Defendant filed a monthly portfolio report with the Board that included the purchase of the BST&G Bonds.

44. Pursuant to R.C. 135.34, on March 6, 2025, the Board conducted a semi-annual review of the investment procedures of the Defendant for the time period of July 1, 2024, through December 31, 2024, based on the Defendant's monthly portfolio reports and other public records. As a result of the review, the Board adopted Resolution No. 25-175, issuing written findings that the Defendant "has not corrected the policy violations and improper investment procedures identified in the preceding semiannual review, as confirmed in Resolution No. 24-759 and has failed to invest the inactive moneys of the county as provided by law, or has invested the inactive moneys of the county in documented, substantial, material, and continuing disregard of the advice or written policies of the Committee, specifically with respect to investments that are in violation of Section V.B. of the [Policy]." A copy of Resolution No. 25-175 is attached hereto as EXHIBIT F.

45. Based on the Defendant's failure to correct past violations and the additional violation, the Board continues to have genuine concern for harm to Delaware County, including risk to public funds and damage to Delaware County's current bond credit ratings. This concern is exacerbated by the Defendant's continued efforts to market his bond purchase "program" which has not complied with Section V.B. of the Policy.

46. Pursuant to R.C. 135.34, the Board is permitted to remove the Defendant as investing authority but elected to not exercise that authority, due to the potential disruptions to overall county investment activity, while the Defendant's violations are limited to a narrow subset of Delaware County's investment portfolio. In short, the Board

has only ever asked that the Defendant follow the straightforward requirements of Section V.B. of the Policy, allowing a closer consideration of the merits of a proposed investment before permitting purchase. Absent such permission, that particular type of investment is restricted.

47. In lieu of removing the Defendant as investing authority, the Board, in Resolution No. 25-175, directed undersigned counsel to initiate this action.

### **CLAIMS FOR RELIEF**

#### **Count I: Declaratory Judgment (R.C. Chapter 2721)**

48. The Board incorporates the foregoing allegations as if they have been rewritten and re-alleged herein.

49. R.C. 135.341 authorizes the Committee to establish written county investment policies.

50. The Committee has established the Policy and amended the Policy to include Section V.B. of the Policy.

51. R.C. 135.34 authorizes the Board to review the investment procedures of the Defendant to ensure compliance with the Policy, including Section V.B. of the Policy.

52. The Defendant did not comply with Section V.B. of the Policy by purchasing the Jennings Bonds, the Brown Township Bonds, and the BST&G Bonds without first seeking and obtaining the Committee's approval and authorization.

53. A real and justiciable controversy exists between the Board and the Defendant regarding whether Section V.B. of the Policy is within the Committee's statutory authority to adopt.

54. A real and justiciable controversy exists between the Board and the Defendant regarding whether the Board may enforce Section V.B. of the Policy, pursuant to R.C. 135.34.

55. Speedy relief from this Court is necessary to preserve the rights of the parties.

56. The Board is entitled to a declaration that Section V.B. of the Policy was lawfully adopted and enforceable and that the Defendant is required to comply with Section V.B. of the Policy.

**Count II: Preliminary and Permanent Injunctive Relief**  
**(Civ. R. 65; R.C. Chapter 2727)**

57. The Board incorporates the foregoing allegations as if they have been rewritten and re-alleged herein.

58. Because Section V.B. of the Policy was lawfully adopted and enforceable for the reasons identified above, this Court should enjoin the Defendant from purchasing any investments in violation of Section V.B. of the Policy.

59. Delaware County will suffer irreparable harm if the Defendant is permitted to continue purchasing investments in violation of Section V.B., due to the fact that the investments are risky, unmarketable, illiquid, and difficult, or potentially impossible, to divest.

60. The Defendant's purchase of investments in violation of Section V.B. of the Policy contravenes the Committee's authority to establish written policies to ensure the best and safest return of funds available to the county for deposit or investment and the Board's authority to ensure compliance with the Committee's written policies.

61. The Defendant continues to solicit additional investment purchases while also openly stating that Section V.B. of the Policy is unenforceable, demonstrating a likelihood of additional violations of Section V.B. of the Policy.

62. Absent injunctive relief preventing the Defendant from violating Section V.B. of the Policy, the Board will suffer irreparable harm.

63. The harm to Delaware County's financial interests outweighs any possible harm to Defendant if he is enjoined from purchasing investments without first seeking and obtaining the Committee's approval and authorization.

64. The Board is unaware of any third parties with rights under a pending purchase agreement with Defendant that would be impaired by an injunction.

65. Preliminary and permanent injunctive relief is not adverse to the public interest because the public has an interest in ensuring that all investment policies are followed to ensure the best and safest return of public funds.

66. For the reasons stated above, the Board is likely to succeed on the merits that Section V.B. of the Policy is legally enforceable and that the Defendant is required to comply with Section V.B. of the Policy.

67. The Board's ordinary remedy of removing the Defendant as investing authority, pursuant to R.C. 135.34, is inadequate and overly burdensome because the Board would be required to assume responsibility for all county investment activity, while the Defendant's violations are limited to a narrow subset of Delaware County's investment portfolio.

68. A preliminary injunction would stay any further prohibited investments and maintain a reasonable status quo until such time as this Court rules on the Board's claims.

### PRAYER FOR RELIEF

**WHEREFORE**, the Plaintiff prays for the following relief:

A. With respect to Count I, the Plaintiff respectfully requests that this Court declare that Section V.B. of the Policy was lawfully adopted and enforceable and that the Defendant is required to comply with Section V.B. of the Policy;

B. With respect to Count II, the Plaintiff respectfully requests that this Court preliminarily and permanently enjoin the Defendant from purchasing any investments in violation of Section V.B. of the Policy;

C. That this Court award Plaintiff its fees and costs; and

D. That this Court grant Plaintiff such further relief that this Court deems just, proper, and equitable.

Respectfully submitted,



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Aric I. Hochstettler (0081081)  
General Counsel  
Delaware County Board of Commissioners  
91 North Sandusky Street, First Floor  
P.O. Box 8006  
Delaware, Ohio 43015  
Telephone: (740) 833-2118  
Facsimile: (740) 833-2099  
AHochstettler@co.delaware.oh.us

*Counsel for Plaintiff*



DELAWARE COUNTY INVESTMENT COMMITTEE  
INVESTMENT AND DEPOSITORY POLICY

**SCOPE:** The Delaware County Investment Advisory Committee hereby directs that the Investing Authority of Delaware County shall be the Delaware County Treasurer (Treasurer) in accordance with this Investment Policy (Policy). This Policy is designated to cover all funds under the control of the Treasurer and those that comprise the core investment portfolio. Notwithstanding the policies detailed below, Chapter 135 of the Ohio Revised Code (ORC) will be adhered to at all times.

**I. Objective and Guidelines.** The following investment objectives will be applied in the management of this public entity's funds:

- The primary objective shall be the presentation of capital and protection of principal while earning investment interest.
- The Treasurer will strive to achieve a fair and safe average rate of return on the investment portfolio over the course of budgetary and economic cycles taking into account state law, safety considerations and cash flow requirements.
- The investment portfolio shall remain sufficiently liquid to enable the Treasurer to meet reasonably anticipated operating requirements.
- The investment portfolio should be diversified in order to avoid incurring potential losses regarding individual securities which may not be held to maturity, whether by erosion of market value or change in market conditions.
- Investments shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of capital as well as the probable income to be derived.
- Bank account relationships will be managed in order to secure adequate services which minimize costs. Deposits should be concentrated in single accounts except where audit control considerations dictate otherwise.

**II. Maturity.** At the time of making an investment the Treasurer should reasonably expect that the investment can be held until its maturity.

Investments may be sold prior to maturity to handle liquidity or operating needs of this public entity and in the prudent discretion of the Treasurer to take gains or change investments.

**III. Authorized Financial Institutions and Dealers.**

U.S. Treasury and Agency securities purchased outright shall be purchased only through financial institutions located within the State of Ohio or through primary securities dealers as designated by the Federal Reserve Board.

DELAWARE COUNTY INVESTMENT COMMITTEE  
INVESTMENT AND DEPOSITORY POLICY

Repurchase Agreements shall be transacted only through banks located within the State of Ohio with which the Treasurer has signed a Master Repurchase Agreement as required in ORC, Chapter 135.

Certificates of Deposit shall be transacted through commercial banks or savings and loans with FDIC or FSLIC coverage which are located within the State of Ohio and qualify as eligible financial institutions under ORC Chapter 135. Certificates of Deposit may be transacted through the CDARs program if transacted and purchased by institutions listed above, located within the State of Ohio.

A list of authorized institutions and dealers shall be maintained with the Investing Authority. Additions and deletions to this list shall be made when deemed in the best interest of the investing authority.

**IV. Derivatives.**

Investments in derivatives and in stripped principal or interest obligations of eligible obligations are strictly prohibited. A derivative means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Additionally, any security, obligation, trust account or instrument that is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument.

**V. Allowable Investments.**

The Treasurer may invest in any instrument or security authorized in ORC chapter 135 as amended.

**VI. Collateral.**

All deposits shall be collateralized pursuant to ORC chapter 135.

**VII. Reporting.**

The Investing Authority shall establish and maintain an inventory of all obligations and securities acquired by the Investing Authority. The inventory shall include the description of the security, type, cost, par value, maturity date, settlement date, and coupon rate. The Investing Authority shall produce a monthly portfolio report detailing the current inventory of all obligations and securities, and all transactions during the month, income received and investment expenses paid, and the names of any persons effecting transactions on behalf of the Investment Authority.

**VIII. Committee Meetings.**

The Investing Authority committee will meet at least once every quarter to review the portfolio in terms of security, type, risk and investment return. The Treasurer shall be responsible for maintaining records of all investments and deposits and preparing reports that summarize recent market conditions, economic conditions, economic developments and anticipated investments for the Investment Advisory Committee meeting.



DELAWARE COUNTY INVESTMENT COMMITTEE  
INVESTMENT AND DEPOSITORY POLICY

The Delaware County Treasurer shall chair the Delaware County Investment Committee and meetings or the Delaware County Treasurer's designee in their absence.

Pursuant to Section 135 of the Ohio Revised Code, all brokers, dealers, and financial institutions initiating transactions with the Investment Authority by giving advice or making investment policy, or executing transactions initiated by the Investment Authority, must acknowledge their agreement to abide by this Investment Policy's content.

The institution below by signing submits that it has read and acknowledges this Investment Policy and agrees to abide by its content.

**IX. Continuing Education.**

The Investing Authority and any employees assigned investment-related responsibilities shall attend continuing education classes or seminars sponsored by the State Treasurer or State Auditor as required in Sections 321.46 and 135.22 of the Revised Code, or as otherwise required by the Revised Code, as applicable each year. Through participation in those programs, the Investing Authority and any other such County employees are expected to develop and maintain an enhanced background and working knowledge in investment, cash management, and ethics.

Such designated persons shall earn the minimum amount of credits or hours of public sector investment topics as required under the statute. The County shall bear the cost of continuing education courses for the Investing Authority and other employees of the County who are assigned investment-related responsibilities.

**X. Statements of Compliance.**

This investment policy has been approved by the investing authority and filed with the Auditor of State, pursuant to 135.35 (K)( I) ORC. The County Investment Advisory Committee has additionally approved the investment policy.

All brokers, dealers, and financial institutions executing transactions initiated by the Treasurer or the Treasurer's investment advisor are required to sign the approved investment policy. Investment policies, signed by such broker/dealers will be filed with the Treasurer. The County's investment advisor shall be registered with the Securities and Exchange Commission and will possess public funds investment management experience, specifically in the area of state and local government investment portfolios, as provided in for under 135.341(0). The investment advisor will be required to sign the approved investment policy.

Any amendments to this policy will be filed with the Auditor of State, Attn: Clerk of the Bureau, P.O. Box 1140, Columbus, Ohio 43216-1140 within fifteen days of the effective date of the amendment.

**XI. Ethics and Conflict of Interest.**


Members of the Investment Advisory Committee and employees of the Treasurer's Office involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make

DELAWARE COUNTY INVESTMENT COMMITTEE  
INVESTMENT AND DEPOSITORY POLICY

impartial investment decisions. Members of the Investment Advisory Committee and employees of the Treasurer's Office involved in the investment process shall disclose any material interests in financial institutions with which they conduct business within the County. They shall further disclose any large personal financial/investment positions that could be related to the performance of the investment portfolio. All employees and investment officials shall be familiar with the requirements of the Ohio Revised Code and County policy regarding gifts and favors and shall act accordingly.

DELAWARE COUNTY INVESTMENT COMMITTEE  
INVESTMENT AND DEPOSITORY POLICY

Delaware County Investment Committee:

X   
Donald Rankey  
Delaware County Treasurer

10/12/2021  
Date

X   
Barb Lewis  
Delaware County Commissioner

10/12/2021  
Date

X   
Jeff Benton  
Delaware County Commissioner

10/12/21  
Date

Financial Institution

\_\_\_\_\_

X \_\_\_\_\_

Date

\_\_\_\_\_

Authorized Officer of Financial Institution



## AMENDMENT TO INVESTMENT AND DEPOSITORY POLICY

The Delaware County Investment Advisory Committee hereby amends **Section V. (Allowable Investments)** of the Investment and Depository Policy by deleting existing **Section V.** and replacing it with the following:

### V. Allowable Investments

- A. Subject to the limitations in Section V.B. of this Policy, the Treasurer may invest in any instrument or security authorized in ORC Chapter 135, as amended.
- B. The Treasurer shall not purchase directly by private placement any bonds or other obligations of political subdivisions or other public entities, unless prior to the purchase the Investment Advisory Committee approves and authorizes the purchase by a unanimous vote of the full membership of the Investment Advisory Committee.

### Delaware County Investment Advisory Committee

  
\_\_\_\_\_  
Donald E. Rankey, Jr., Treasurer

5/11/23  
Date

  
\_\_\_\_\_  
Jeff Benton, Commissioner

5/11/23  
Date

  
\_\_\_\_\_  
Barb Lewis, Commissioner

5/11/23  
Date



June 5, 2024

Jeff Benton  
Delaware County  
Commissioner  
91 N. Sandusky St.  
Delaware, OH 43015

Barb Lewis  
Delaware County  
Commissioner  
91 N. Sandusky St.  
Delaware, OH 43015

Donald E. Rankey, Jr.  
Delaware County Treasurer  
145 N. Union St., 1<sup>st</sup> Floor  
Delaware, Ohio 43015

Via Email **ONLY**: [JBenton@co.delaware.oh.us](mailto:JBenton@co.delaware.oh.us), [BLewis@co.delaware.oh.us](mailto:BLewis@co.delaware.oh.us),  
[DRankey@co.delaware.oh.us](mailto:DRankey@co.delaware.oh.us)

Re: Authority to Amend the Delaware County Investment and Depository Policy

Dear Delaware County Investment Advisory Committee,

On Monday, May 20, 2024, you met in a public special meeting to discuss county investment policies. You asked our office to issue an opinion on whether your committee, the Delaware County Investment Advisory Committee ("Committee"), had the authority to amend the investment policy on May 11, 2023, and whether that amendment was enforceable for the County's investments.

It is the opinion of this office that the Committee's approval of the May 11, 2023 amendment was legally proper at the time it was presented at the Committee meeting, and that the policy is legally enforceable.

The powers and duties of the Committee regarding amendments to the Policy are located in R.C. § 135.341(C). In relevant part, this section states:

The committee shall establish written county investment policies and shall meet at least once every three months, *to review or revise its policies* and to advise the investing authority on the county investments *in order to ensure the best and safest return of funds available to the county for deposit and investment*. The committee's policies may establish a limit on the period of time that moneys may be invested in any particular type of investment. R.C. § 135.341(C). [Emphasis added.]

This expressly requires the Committee to establish investment policies and to meet at least quarterly to, among other things, “review or revise its policies.” *Id.* Revisions are effectuated by amendments. Thus, the Committee has authority to amend the Policy.

Substantively the May 11, 2023 amendment imposes a unanimous vote of the Committee requirement to any purchase by the Delaware County Treasurer of “bonds or other obligation of political subdivisions or other public entities.” This amendment is reasonably related to ensuring the best and safest return of funds available to the county for deposit and investment; and therefore, is authorized by the R.C. § 135.341(C).

Furthermore, the first sentence of R.C. § 135.341(C) broadly requires the Committee to establish written county investment policies. In crafting the policies, the Committee is confined only by the limits on investments in R.C. § 135.35 and as found elsewhere in the Revised Code. Nothing prohibits the Committee from making restrictions on the types of investments that can be made using county funds.

Please feel free to contact this office should you have any questions or concerns.

Sincerely,

/s/ Michael P. Cavanaugh  
Michael P. Cavanaugh  
Assistant Prosecuting Attorney



# Delaware County Commis

Jeff Benton  
Barb Lewis  
Gary Merrell

County Administrator  
Tracie Davies

Deputy Administrators  
Dawn Huston  
Aric Hochstettler

Clerk to the Commissioners  
Jennifer Walraven

August 29, 2024

To our Delaware County Partners:

We are writing to share information about a public financing program that the Delaware County Treasurer is currently marketing to public entities. The Delaware County Board of Commissioners is committed to assisting our community partners finance their projects whenever possible, but we are also committed to ensuring that the public monies entrusted to the representatives of Delaware County government are invested prudently, transparently, and in strict accordance with applicable law and policy.

The Delaware County Investment Advisory Committee ("IAC") is statutorily charged with overseeing the County's investments. It is also, by statute, composed of three members: two county commissioners appointed by the Board of Commissioners and the county treasurer. The county treasurer serves as the investing authority, subject to the policies the IAC establishes. The public financing program that the Delaware County Treasurer is currently marketing consists of private-placement purchases of securities issued by public entities, including bonds issued through the Delaware County Finance Authority Bond Fund. The IAC unanimously adopted a policy specifically concerning these types of investments, requiring unanimous approval by the full IAC membership prior to the investment being purchased. This policy allows the IAC to assess any private-placement purchase of public securities and determine whether the investment provides a fair and safe return on the county's public funds. The process includes a credit assessment and consideration of the interest rates charged. The underlying purpose of the policy is to preserve county funds and protect Delaware County's excellent AAA credit rating.

Despite voting in favor of establishing the policy, the Delaware County Treasurer has raised questions about the policy, prompting the IAC to request a legal opinion from the Delaware County Prosecuting Attorney about the policy's enforceability. In a written opinion, the Delaware County Prosecuting Attorney affirmed that the policy was lawfully adopted and is legally enforceable. (The IAC has voted to release the opinion publicly, and a copy is included for your review.) This opinion is consistent with past opinions of the Ohio Attorney General, including OAG 2018-008, OAG 2014-039, and OAG 92-025. In the event future investments are considered without strict adherence to the IAC policy, the IAC may take action to enforce the policy. The Board of Commissioners also has authority to issue findings that the investing authority has violated the policy, pursuant to R.C. 135.34.

We want to help fund your important projects while ensuring that county investments provide a fair and safe return for taxpayer funds. Please contact the Delaware County Finance Authority to learn more about its Bond Fund and how it can partner with you and Delaware County to help fund your projects, including any necessary IAC review in accordance with IAC policy. If you have any questions about this process or the applicable laws and policies governing it, please do not hesitate to contact us.

Sincerely,

Jeff Benton  
Commissioner

Barb Lewis  
Commissioner

Gary Merrell  
Commissioner

cc: Aric Hochstettler, General Counsel, Delaware County Board of Commissioners

Delaware County Commissioners, The Historic Courthouse, 91 North Sandusky Street, Delaware, Ohio 43015  
PHONE: (740) 833-2100 FAX: (740) 833-2099 WEB: [www.co.delaware.oh.us](http://www.co.delaware.oh.us)  
FACEBOOK: @DelawareCountyOhio TWITTER: @DelawareCoOhio INSTAGRAM: @delawarecoohio



# Delaware County Commi

Jeff Benton  
Barb Lewis  
Gary Merrell

County Administrator  
Tracie Davies

Deputy Administrators  
Dawn Huston  
Aric Hochstettler

Clerk to the Commissioners  
Jennifer Walraven

## RESOLUTION NO. 24-759

### IN THE MATTER OF CONFIRMING THE SEMIANNUAL REVIEW OF INVESTMENT PROCEDURES AND ISSUING WRITTEN FINDINGS BASED ON THE REVIEW:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Delaware County Investment Advisory Committee (the "Committee") has established written county investment policies, pursuant to section 135.341 of the Revised Code; and

WHEREAS, pursuant to section 135.34 of the Revised Code, the Delaware County Board of Commissioners (the "Board") may review semiannually the investment procedures of the investing authority, and when it is determined that the investing authority has failed to invest the inactive moneys of the county as provided by law, or in documented substantial, material, and continuing disregard of the advice or written policies of the Committee, the Board shall inform, by written notice, the investing authority of its finding; and

WHEREAS, the Board has conducted a review of the investment procedures of the investing authority for the time period of January 1, 2024, through June 30, 2024, and is prepared to issue written findings based on the review;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, that:

Section 1. The Board hereby confirms that it has conducted a semiannual review of the investment procedures of the investing authority, based on the investing authority's reports, public records, and additional information provided in accordance with section 135.34 of the Revised Code.

Section 2. Based on the review of investment procedures, the Board hereby finds and determines that the investing authority has failed to invest the inactive moneys of the county as provided by law, or has invested the inactive moneys of the county in documented, substantial, material, and continuing disregard of the advice or written policies of the Committee, specifically with respect to investments that are in violation of Section V.B. of the Committee's Investment and Depository Policy.

Section 3. The Board hereby directs the Clerk of the Board to provide written notice and a copy of this Resolution to the investing authority informing him of the Board's findings.

Vote on Motion      Mr. Merrell      Aye      Mr. Benton      Aye      Mrs. Lewis      Aye

I, Jennifer Walraven, Clerk to the Board of County Commissioners hereby certify that the foregoing is a true and correct copy of a resolution of the Board of County Commissioners of Delaware County duly adopted on September 16, 2024, and appearing upon the official records of said Board.

Jennifer Walraven, Clerk to Commissioners





# Delaware County Commissioners

Jeff Benton  
Barb Lewis  
Gary Merrell

County Administrator  
Tracie Davies

Deputy Administrators  
Dawn Huston  
Aric Hochstettler

Clerk to the Commissioners  
Jennifer Walraven

September 16, 2024

Mr. Donald E. Rankey, Jr.  
Delaware County Treasurer  
Delaware County Investment Advisory Committee

Attached is a copy of Delaware County Commissioners' Resolution 24-759

RESOLUTION NO. 24-759  
IN THE MATTER OF CONFIRMING THE SEMIANNUAL REVIEW OF INVESTMENT PROCEDURES AND  
ISSUING WRITTEN FINDINGS BASED ON THE REVIEW:

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer M. Walraven".

Jennifer M. Walraven  
Clerk To The Board Of Commissioners Delaware County  
91 N. Sandusky Street P.O. Box 8006  
Delaware, OH 43015  
740-833-2108

## RECEIVED

SEP 16 2024

Donald E. Rankey, Jr  
TREASURER DELAWARE CO. OHIO



# Delaware County Comm

Jeff Benton  
Barb Lewis  
Gary Merrell

County Administrator  
Tracie Davies

Deputy Administrators  
Dawn Huston  
Aric Hochstettler

Clerk to the Commissioners  
Jennifer Walraven

## RESOLUTION NO. 25-175

### IN THE MATTER OF CONFIRMING THE SEMIANNUAL REVIEW OF INVESTMENT PROCEDURES AND ISSUING WRITTEN FINDINGS BASED ON THE REVIEW:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, the Delaware County Investment Advisory Committee (the "Committee") has established written county investment policies, pursuant to section 135.341 of the Revised Code; and

WHEREAS, pursuant to section 135.34 of the Revised Code, the Delaware County Board of Commissioners (the "Board") may review semiannually the investment procedures of the investing authority, and when it is determined that the investing authority has failed to invest the inactive moneys of the county as provided by law, or in documented substantial, material, and continuing disregard of the advice or written policies of the Committee, the Board shall inform, by written notice, the investing authority of its finding; and

WHEREAS, as a result of the review of the investment procedures of the investing authority for the time period of January 1, 2024, through June 30, 2024, the Board adopted Resolution No. 24-759, confirming the semiannual review of investment procedures, issuing written findings based on the review, and providing written notice to the investing authority; and

WHEREAS, pursuant to section 135.34 of the Revised Code, if at the time of the next succeeding semiannual review, the Board finds that such procedures, as included in the written notice, have not been corrected, the Board may designate, by resolution, the Board as a whole, one of its members, or one of its employees as the investing authority, and thereafter, until such action is rescinded by resolution of the Board, the investing authority shall be as designated by the Board; and

WHEREAS, the Board has conducted a review of the investment procedures of the investing authority for the time period of July 1, 2024, through December 31, 2024, and is prepared to issue written findings based on the review;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, that:

Section 1. The Board hereby confirms that it has conducted a semiannual review of the investment procedures of the investing authority, based on the investing authority's reports, public records, and additional information provided in accordance with section 135.34 of the Revised Code.

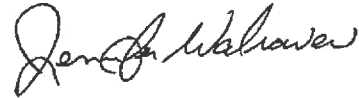
Section 2. Based on the review of investment procedures, the Board hereby finds and determines that the investing authority has not corrected the policy violations and improper investment procedures identified in the preceding semiannual review, as confirmed in Resolution No. 24-759 and has failed to invest the inactive moneys of the county as provided by law, or has invested the inactive moneys of the county in documented, substantial, material, and continuing disregard of the advice or written policies of the Committee, specifically with respect to investments that are in violation of Section V.B. of the Committee's Investment and Depository Policy.

Section 3. The Board hereby elects to not designate a replacement investing authority but directs the Board's legal counsel to initiate and prosecute legal action to enforce Section V.B. of the Committee's Investment and Depository Policy.

Section 4. The Board hereby directs the Clerk of the Board to provide written notice and a copy of this Resolution to the Delaware County Treasurer informing him of the Board's findings.

Vote on Motion            Mr. Benton        Aye    Mr. Merrell        Aye    Mrs. Lewis        Aye

I, Jennifer Walraven, Clerk to the Board of County Commissioners hereby certify that the foregoing is a true and correct copy of a resolution of the Board of County Commissioners of Delaware County duly adopted on March 6, 2025, and appearing upon the official records of said Board.



Jennifer Walraven, Clerk to Commissioners