

As Introduced

**129th General Assembly
Regular Session
2011-2012**

S. B. No. 173

Senator Hughes

**Cosponsors: Senators Beagle, Brown, Jones, Jordan, Manning, Obhof,
Patton, Seitz, Stewart**

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A BILL

To amend sections 135.18 and 135.37 and to enact 1
sections 135.145 and 135.354 of the Revised Code 2
to permit a political subdivision, upon the 3
deposit of public moneys with an eligible public 4
depository, to arrange for the public depository 5
to redeposit those moneys with other federally 6
insured banks and savings and loan associations in 7
accordance with specified conditions. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 135.18 and 135.37 be amended and 9
sections 135.145 and 135.354 of the Revised Code be enacted to 10
read as follows: 11

Sec. 135.145. (A) In addition to the authority provided in 12
section 135.14 of the Revised Code for the investment or deposit 13
of interim moneys, the treasurer or governing board of a political 14
subdivision, upon the deposit of interim moneys with, or the award 15
of active or inactive deposits to, an eligible public depository 16
described in section 135.03 of the Revised Code and designated 17
pursuant to section 135.12 of the Revised Code, may authorize the 18

public depository to arrange for the redeposit of such public 19
moneys in accordance with the following conditions: 20

(1) The public depository, on or after the date the public 21
moneys are received, arranges for the redeposit of the moneys into 22
deposit accounts in one or more federally insured banks or savings 23
and loan associations that are located in the United States, and 24
serves as custodian of the moneys for the treasurer or governing 25
board of the political subdivision. 26

(2) If the amount of the public moneys deposited with and 27
held at the close of business by the public depository exceeds the 28
amount insured by the federal deposit insurance corporation, the 29
excess amount is subject to the pledging requirements described in 30
section 135.18 or 135.181 of the Revised Code. 31

(3) The full amount of the public moneys redeposited by the 32
public depository into deposit accounts in banks or savings and 33
loan associations, plus any accrued interest, is insured by the 34
federal deposit insurance corporation. 35

(4) On the same date the public moneys are redeposited by the 36
public depository, the public depository receives an amount of 37
deposits from customers of other financial institutions that is 38
equal to the amount of moneys redeposited by the public 39
depository. 40

(B) Except as provided in division (A)(2) of this section, 41
the public moneys deposited in accordance with this section are 42
not subject to the pledging requirements described in section 43
135.18 or 135.181 of the Revised Code. 44

Sec. 135.18. (A) The treasurer, before making the initial 45
deposit in a public depository pursuant to an award made under 46
sections 135.01 to 135.21 of the Revised Code, except as provided 47
in section 135.144 or 135.145 of the Revised Code, shall require 48

the institution designated as a public depository to pledge to and 49
deposit with the treasurer, as security for the repayment of all 50
public moneys to be deposited in the public depository during the 51
period of designation pursuant to the award, eligible securities 52
of aggregate market value equal to the excess of the amount of 53
public moneys to be at the time so deposited, over and above the 54
portion or amount of such moneys as is at that time insured by the 55
federal deposit insurance corporation or by any other agency or 56
instrumentality of the federal government. In the case of any 57
deposit other than the initial deposit made during the period of 58
designation, the amount of the aggregate market value of 59
securities required to be pledged and deposited shall be equal to 60
the difference between the amount of public moneys on deposit in 61
such public depository plus the amount to be so deposited, minus 62
the portion or amount of the aggregate as is at the time insured 63
as provided in this section. The treasurer may require additional 64
eligible securities to be deposited to provide for any 65
depreciation which may occur in the market value of any of the 66
securities so deposited. 67

(B) The following securities shall be eligible for the 68
purposes of this section: 69

(1) Bonds, notes, or other obligations of the United States; 70
or bonds, notes, or other obligations guaranteed as to principal 71
and interest by the United States or those for which the faith of 72
the United States is pledged for the payment of principal and 73
interest thereon, by language appearing in the instrument 74
specifically providing such guarantee or pledge and not merely by 75
interpretation or otherwise; 76

(2) Bonds, notes, debentures, letters of credit, or other 77
obligations or securities issued by any federal government agency 78
or instrumentality, or the export-import bank of Washington; 79
bonds, notes, or other obligations guaranteed as to principal and 80

interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by interpretation or otherwise and not by language appearing in the instrument specifically providing such guarantee or pledge;

(3) Obligations of or fully insured or fully guaranteed by the United States or any federal government agency or instrumentality;

(4) Obligations partially insured or partially guaranteed by any federal agency or instrumentality;

(5) Obligations of or fully guaranteed by the federal national mortgage association, federal home loan mortgage corporation, federal farm credit bank, or student loan marketing association;

(6) Bonds and other obligations of this state;

(7) Bonds and other obligations of any county, township, school district, municipal corporation, or other legally constituted taxing subdivision of this state, which is not at the time of such deposit, in default in the payment of principal or interest on any of its bonds or other obligations, for which the full faith and credit of the issuing subdivision is pledged;

(8) Bonds of other states of the United States which have not during the ten years immediately preceding the time of such deposit defaulted in payments of either interest or principal on any of their bonds;

(9) Shares of no-load money market mutual funds consisting exclusively of obligations described in division (B)(1) or (2) of this section and repurchase agreements secured by such obligations;

(10) A surety bond issued by a corporate surety licensed by

the state and authorized to issue surety bonds in this state 111
pursuant to Chapter 3929. of the Revised Code, and qualified to 112
provide surety bonds to the federal government pursuant to 96 113
Stat. 1047 (1982), 31 U.S.C.A. 9304; 114

(11) Bonds or other obligations of any county, municipal 115
corporation, or other legally constituted taxing subdivision of 116
another state of the United States, or of any instrumentality of 117
such county, municipal corporation, or other taxing subdivision, 118
for which the full faith and credit of the issuer is pledged and, 119
at the time of purchase of the bonds or other obligations, rated 120
in one of the two highest categories by at least one nationally 121
recognized standard rating service. 122

(C) If the public depository fails to pay over any part of 123
the public deposit made therein as provided by law, the treasurer 124
shall sell at public sale any of the bonds or other securities 125
deposited with the treasurer pursuant to this section or section 126
131.09 of the Revised Code, or shall draw on any letter of credit 127
to the extent of the failure to pay. Thirty days' notice of the 128
sale shall be given in a newspaper of general circulation at 129
Columbus, in the case of the treasurer of state, and at the county 130
seat of the county in which the office of the treasurer is 131
located, in the case of any other treasurer. When a sale of bonds 132
or other securities has been so made and upon payment to the 133
treasurer of the purchase money, the treasurer shall transfer such 134
bonds or securities whereupon the absolute ownership of such bonds 135
or securities shall pass to the purchasers. Any surplus remaining 136
after deducting the amount due the state or subdivision and 137
expenses of sale shall be paid to the public depository. 138

(D) An institution designated as a public depository may, by 139
written notice to the treasurer, designate a qualified trustee and 140
deposit the eligible securities required by this section with the 141
trustee for safekeeping for the account of the treasurer and the 142

institution as a public depository, as their respective rights to 143
and interests in such securities under this section may appear and 144
be asserted by written notice to or demand upon the trustee. In 145
which case, the treasurer shall accept the written receipt of the 146
trustee describing the securities that have been deposited with 147
the trustee by the public depository, a copy of which shall also 148
be delivered to the public depository. Thereupon all securities so 149
deposited with the trustee are deemed to be pledged with the 150
treasurer and to be deposited with the treasurer, for all the 151
purposes of this section. 152

(E) The governing board may make provisions for the exchange 153
and release of securities and the substitution of other eligible 154
securities therefor except where the public depository has 155
deposited eligible securities with a trustee for safekeeping as 156
provided in this section. 157

(F) When the public depository has deposited eligible 158
securities described in division (B)(1) of this section with a 159
trustee for safekeeping, the public depository may at any time 160
substitute or exchange eligible securities described in division 161
(B)(1) of this section having a current market value equal to or 162
greater than the current market value of the securities then on 163
deposit and for which they are to be substituted or exchanged, 164
without specific authorization from any governing board, boards, 165
or treasurer of any such substitution or exchange. 166

(G) When the public depository has deposited eligible 167
securities described in divisions (B)(2) to (9) of this section 168
with a trustee for safekeeping, the public depository may at any 169
time substitute or exchange eligible securities having a current 170
market value equal to or greater than the current market value of 171
the securities then on deposit and for which they are to be 172
substituted or exchanged without specific authorization of any 173
governing board, boards, or treasurer of any such substitution or 174

exchange only if: 175

(1) The treasurer has authorized the public depository to 176
make such substitution or exchange on a continuing basis during a 177
specified period without prior approval of each substitution or 178
exchange. The authorization may be effected by the treasurer 179
sending to the trustee a written notice stating that substitution 180
may be effected on a continuing basis during a specified period 181
which shall not extend beyond the end of the period of designation 182
during which the notice is given. The trustee may rely upon this 183
notice and upon the period of authorization stated therein and 184
upon the period of designation stated therein. 185

(2) No continuing authorization for substitution has been 186
given by the treasurer, the public depository notifies the 187
treasurer and the trustee of an intended substitution or exchange, 188
and the treasurer fails to object to the trustee as to the 189
eligibility or market value of the securities being substituted 190
within ten calendar days after the date appearing on the notice of 191
proposed substitution. The notice to the treasurer and to the 192
trustee shall be given in writing and delivered personally or by 193
certified or registered mail with a return receipt requested. The 194
trustee may assume in any case that the notice has been delivered 195
to the treasurer. In order for objections of the treasurer to be 196
effective, receipt of the objections must be acknowledged in 197
writing by the trustee. 198

(3) The treasurer gives written authorization for a 199
substitution or exchange of specific securities. 200

(H) The public depository shall notify any governing board, 201
boards, or treasurer of any substitution or exchange under 202
division (G)(1) or (2) of this section. Upon request from the 203
treasurer, the trustee shall furnish a statement of the securities 204
pledged against such public deposits. 205

(I) Any federal reserve bank or branch thereof located in 206
this state or federal home loan bank, without compliance with 207
Chapter 1111. of the Revised Code and without becoming subject to 208
any other law of this state relative to the exercise by 209
corporations of trust powers generally, is qualified to act as 210
trustee for the safekeeping of securities, under this section. Any 211
institution mentioned in section 135.03 of the Revised Code that 212
holds a certificate of qualification issued by the superintendent 213
of financial institutions or any institution complying with 214
sections 1111.04, 1111.05, and 1111.06 of the Revised Code, is 215
qualified to act as trustee for the safekeeping of securities, 216
other than those belonging to itself, under this section. Upon 217
application to the superintendent in writing by an institution, 218
the superintendent shall investigate the applicant and ascertain 219
whether or not it has been authorized to execute and accept trusts 220
in this state and has safe and adequate vaults and efficient 221
supervision thereof for the storage and safekeeping within this 222
state of securities. If the superintendent finds that the 223
applicant has been so authorized and has such vaults and 224
supervision thereof, the superintendent shall approve the 225
application and issue a certificate to that effect, the original 226
or any certified copy of which shall be conclusive evidence that 227
the institution therein named is qualified to act as trustee for 228
the purposes of this section with respect to securities other than 229
those belonging to itself. 230

Notwithstanding the fact that a public depository is required 231
to pledge eligible securities in certain amounts to secure 232
deposits of public moneys, a trustee has no duty or obligation to 233
determine the eligibility, market value, or face value of any 234
securities deposited with the trustee by a public depository. This 235
applies in all situations including, without limitation, a 236
substitution or exchange of securities. 237

Any charges or compensation of a designated trustee for 238
acting as such under this section shall be paid by the public 239
depository and in no event shall be chargeable to the state or the 240
subdivision or to the treasurer or to any officer of the state or 241
subdivision. The charges or compensation shall not be a lien or 242
charge upon the securities deposited for safekeeping prior or 243
superior to the rights to and interests in the securities of the 244
state or the subdivision or of the treasurer. The treasurer and 245
the treasurer's bonders or surety shall be relieved from any 246
liability to the state or the subdivision or to the public 247
depository for the loss or destruction of any securities deposited 248
with a qualified trustee pursuant to this section. 249

Sec. 135.354. (A) In addition to the authority provided in 250
section 135.35 of the Revised Code for the investment or deposit 251
of inactive moneys, the investing authority of a county, upon the 252
deposit of active or inactive moneys with an eligible public 253
depository described in section 135.32 of the Revised Code and 254
selected by the investing authority, may authorize the public 255
depository to arrange for the redeposit of such public moneys in 256
accordance with the following conditions: 257

(1) The public depository, on or after the date the public 258
moneys are received, arranges for the redeposit of the moneys into 259
deposit accounts in one or more federally insured banks or savings 260
and loan associations that are located in the United States, and 261
serves as custodian of the moneys for the investing authority. 262

(2) If the amount of the public moneys deposited with and 263
held at the close of business by the public depository exceeds the 264
amount insured by the federal deposit insurance corporation, the 265
excess amount is subject to the pledging requirements described in 266
section 135.181 or 135.37 of the Revised Code. 267

(3) The full amount of the public moneys redeposited by the 268

public depository into deposit accounts in banks or savings and 269
loan associations, plus any accrued interest, is insured by the 270
federal deposit insurance corporation. 271

(4) On the same date the public moneys are redeposited by the 272
public depository, the public depository receives an amount of 273
deposits from customers of other financial institutions that is 274
equal to the amount of moneys redeposited by the public 275
depository. 276

(B) Except as provided in division (A)(2) of this section, 277
public moneys deposited in accordance with this section are not 278
subject to the pledging requirements described in section 135.181 279
or 135.37 of the Revised Code. 280

Sec. 135.37. (A) ~~Any~~ Except as provided in section 135.353 or 281
135.354 of the Revised Code, any institution described in section 282
135.32 of the Revised Code shall, at the time it receives a 283
deposit of public moneys under section 135.33 or 135.35 of the 284
Revised Code, pledge to and deposit with the investing authority, 285
as security for the repayment of all public moneys to be 286
deposited, eligible securities of aggregate market value equal to 287
or in excess of the amount of public moneys to be at the time so 288
deposited. Any securities listed in division (B) of section 135.18 289
of the Revised Code are eligible for such purpose. The collateral 290
so pledged or deposited may be in an amount that when added to the 291
portion of the deposit insured by the federal deposit insurance 292
corporation or any other agency or instrumentality of the federal 293
government will, in the aggregate, equal or exceed the amount of 294
public moneys so deposited; provided that, when an investment of 295
inactive moneys consists of the purchase of one or more of the 296
type of securities listed in division (A)(1) or (2) of section 297
135.35 of the Revised Code, no additional collateral need be 298
pledged or deposited. 299

The investing authority also may require that additional 300
eligible securities be pledged or deposited when depreciation 301
occurs in the market value of any securities pledged or deposited. 302

(B) The public depository may, at any time, provide for the 303
exchange or substitution of securities for other eligible 304
securities or the release of securities when the amount of public 305
moneys on deposit does not require that they be pledged or 306
deposited, by notifying the investing authority of its intent to 307
take such action. 308

Upon proper notification of the public depository's desire 309
for release of securities, the investing authority may sign a 310
release of such securities provided that the aggregate amount of 311
collateral remaining pledged or deposited meets the requirements 312
of divisions (A) to (E) of this section. 313

When a public depository desires to exchange or substitute 314
securities for other eligible securities, the investing authority 315
may release the securities pledged or deposited after the deposit 316
of other securities having a current market value equal to or 317
greater than the current market value of securities then on 318
deposit or after a safekeeping receipt has been received 319
evidencing the deposit and pledge of such securities. 320

(C) Upon request from the investing authority, the trustee or 321
the public depository shall furnish a statement of the securities 322
pledged against the public moneys deposited in the public 323
depository. 324

(D) If a public depository fails to pay over any part of any 325
public deposit made as provided by law, the investing authority 326
shall sell any pledged or deposited securities, as prescribed in 327
division (C) of section 135.18 of the Revised Code. 328

(E) A public depository may designate, in accordance with the 329
provisions of division (D) of section 135.18 of the Revised Code, 330

a trustee for the safekeeping of any pledged securities. Such 331
trustee shall be any bank or other institution eligible as a 332
trustee under division (I) of section 135.18 of the Revised Code, 333
except that, for the purposes of this section, a bank to which a 334
certificate of qualification is issued shall be an institution 335
mentioned in division (A) of section 135.32 of the Revised Code. 336

(F) In lieu of the pledging requirements prescribed in 337
divisions (A) to (E) of this section, an institution designated as 338
a public depository may pledge securities pursuant to section 339
135.181 of the Revised Code. 340

Section 2. That existing sections 135.18 and 135.37 of the 341
Revised Code are hereby repealed. 342