Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 173

129th General Assembly
(As Reported by S. Financial Institutions)

Sens. Hughes, Beagle, Brown, Jones, Jordan, Manning, Obhof, Patton, Seitz, Stewart, Bacon, Kearney, Wilson

BILL SUMMARY

- Expands state and political subdivision investment authority by permitting the state and political subdivisions to authorize a public depository, upon the deposit of public money with the depository, to arrange for the redeposit of the money with other federally insured financial institutions.
- Subjects public money to the pledging requirements under current law governing public deposits, but only if the amount deposited exceeds the amount insured by the Federal Deposit Insurance Corporation (FDIC).
- Requires the full amount of public money redeposited (plus any accrued interest) to be insured by the FDIC.
- Modifies the law governing investment in certificates of deposit of interim deposits of the state and political subdivisions, other than counties, and of inactive money of counties.
- Removes the one-year maturity limitation for certificates of deposit with respect to interim deposits.
- Requires public depositories to provide certain information, including monthly account statements, to the state or a political subdivision about its public deposits.

CONTENT AND OPERATION

Investment authority of the state and political subdivisions

Redeposit authority

The bill expands the investment authority that the state and political subdivisions may exercise regarding public money. The bill allows them to authorize a public depository, on or after receiving a deposit of public money, as custodian of the money, to redeposit it into deposit accounts in one or more federally insured banks, savings banks, or savings and loan associations located in the United States.[1]

Qualifying deposits

The bill extends this authority regarding (1) the deposit of interim money and the active and inactive deposits of the state or a political subdivision (other than a county) and (2) the deposit of active and inactive money of a county.[2]

Deposit insurance

The bill requires, with regard to redeposited public money, that the full amount, plus any accrued interest, must be insured by the Federal Deposit Insurance Corporation (FDIC).[3]

Swapping

The bill provides that on the same date the public money is redeposited by the public depository, the depository may, in its sole discretion, choose to receive deposits in any amount from other banks, savings banks, and savings and loan associations.[4]

Pledging

If the amount of public money deposited with and held at the close of business by the public depository exceeds the amount insured by the FDIC, the excess amount is subject to the pledging requirements of current law governing public deposits (see discussion below). But note the bill provides that except for pledging regarding

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[1] R.C. 135.145(A)(1) and 135.354(A)(1).

[2] R.C. 135.145(A) and 135.354(A).

[3] R.C. 135.145(A)(3) and 135.354(A)(3).

[4] R.C. 135.145(A)(4) and 135.354(A)(4).

amounts exceeding FDIC insurance, the pledging requirements are inapplicable to deposits of public money for purposes of redeposit as permitted by the bill.[5]

Account statement/reporting

The bill requires the public depository to provide the state or political subdivision a monthly account statement and access to daily reporting that include the amount of the redeposited money held at each bank, savings bank, or savings and loan association for which the public depository acts as custodian.[6]

Certificate of deposit authority

The bill permits the state to invest interim deposits in certificates of deposit in the same manner that political subdivisions can make such an investment (see **COMMENT**).[7] The bill also alters the existing authority that political subdivisions have to invest public money in certificates of deposit by altering the existing swapping provisions, adding a requirement for account statements, changing the maturity date of certain certificates, and expanding the financial institutions from which certificates of deposit may be issued.

Swapping

The bill provides that on the same date the public moneys are redeposited by the public depository, the depository may, in its sole discretion, choose whether to receive deposits, in any amount from other banks, savings banks, or savings and loan associations. This language replaces the current law provision requiring the swapping of an equal or greater amount from other federally insured financial institutions.[8]

Account statement

The bill requires the public depository to provide the state or political subdivision a monthly account statement that includes the amount of the state's or subdivision's funds deposited and held at each bank, savings bank, and savings and loan association for which the depository acts as a custodian.[9]

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[5] R.C. 135.145(A)(2) and (B); R.C. 135.354(A)(2) and (B); R.C. 135.18; R.C. 135.181 (not in the bill) and R.C. 135.37.

[6] R.C. 135.145(A)(5) and 135.354(A)(5).

[7] R.C. 135.145(A).

[8] R.C. 135.144(A)(4) and 135.353(A)(3)(d).

[9] R.C. 135.144(A)(5) and 135.353(A)(3)(e).

Certificates of deposit for interim deposits

The bill eliminates the one-year maturity limitation on certificates of deposits of interim deposits under current law.[10]

Inclusion of savings banks

With respect to certificates of deposits for interim deposits of the state or a political subdivision (other than a county), and inactive money of a county, the bill includes federally insured savings banks as financial institutions that may issue such instruments.[11]

Current law – background

Active, inactive, and interim deposits

Under current law, the state and political subdivisions are permitted to deposit their active, inactive, and interim money, as applicable, into certain financial institutions designated as public depositories. Current law also provides requirements and limitations regarding qualification, application, and designation of these depositories.[12] Under current law, "active deposit" means public money necessary to meet current demands of the treasury that must be placed (1) in a commercial account, permitting withdrawal on demand, (2) a negotiable order of withdrawal account, or (3) a money market deposit account. "Interim deposit" means public money of the state or of a political subdivision, other than a county, that will not be needed for immediate use, but will be needed before the end of the period of designation of the institution as a public depository. "Inactive deposit" is a public deposit of the state or of a political subdivision, other than a county, that is not active or interim. Under current law, counties do not have interim deposits. Inactive money, with regard to counties, is all public money in public depositories in excess of the amount determined to be needed as active money.[13]

Investment authority

Under current law, the state and political subdivisions, other than counties, may invest interim deposits in certain obligations specified in law. Those obligations

[10] R.C. 135.13.

[11] R.C. 135.144 and 135.353.

[12] R.C. Chapter 135. (only portions in the bill).

[13] R.C. 135.01 and 135.31 (not in the bill).

include, for example, United States Treasury bills, notes, bonds, or other obligations and certificates of deposit. Counties have similar authority with respect to inactive money.[14]

Pledging

Current law requires that public depositories that receive public money must pledge and deposit with the political subdivision eligible securities meeting certain aggregate market value requirements to serve as security for the repayment of the deposited money. The law also permits, as an alternate pledging mechanism, the pledging of a single pool of securities with a total market value that is at least equal to 105% of the total amount of public deposits. Examples of securities that may be pledged include bonds, notes, or other obligations of the United States and bonds and other obligations of the state. The pledging and pooling requirements include provisions for the safekeeping, substitution, and exchange of securities and their liquidation in the event of failure to pay over deposited public money.[15]

COMMENT

The bill gives the state the authority to invest interim deposits in the same manner as political subdivisions (other than counties) make such investments. Current law not sought to be amended by the bill already provides the state authority to invest interim deposits in certificates of deposits of eligible institutions, which include savings banks.[16]

HISTORY

ACTION	DATE
Introduced	05-17-11
Reported, S. Financial Institutions	09-15-11

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[14] R.C. 135.14, 135.143 (not in the bill), 135.144, 135.35 (not in the bill), and 135.353.

[15] R.C. 135.18, 135.181 (not in the bill), and 135.37.

[16] R.C. 135.143(A)(8).