



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [Am. H.B. 221 of the 130th G.A.](#)

**Date:** May 29, 2014

**Status:** As Reported by House State and Local Government

**Sponsor:** Reps. Terhar and Heard

**Local Impact Statement Procedure Required:** No

**Contents:** To permit credit unions to serve as public depositories under certain circumstances and to allow credit unions to participate in the Development Services Agency's Capital Access Loan Program and its various small business loan guarantee programs

### State Fiscal Highlights

- No direct fiscal effect on the state. The bill simply expands the type of eligible financial institutions that could become a public depository for public funds and participate in certain state loan programs, but does not require the state to invest or deposit any public funds in a credit union.

### Local Fiscal Highlights

- No direct fiscal effect on political subdivisions. The bill simply expands the type of eligible financial institutions that could become a public depository for public funds and participate in certain state loan programs, but does not require political subdivisions to invest or deposit any public funds in a credit union.

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## Detailed Fiscal Analysis

The bill allows certain credit unions to serve as public depositories under the Uniform Depository Act under certain circumstances. Credit unions that are eligible to become a public depository under this bill are: a federal credit union located in Ohio, a credit union that is chartered under the laws of another state, is located in Ohio, and is licensed by the Superintendent of Financial Institutions (OSFI) as a foreign credit union, and an Ohio chartered credit union located in Ohio. The bill specifies that a credit union is not eligible to become a public depository if the credit union or any of its "regulated individuals"<sup>1</sup> is currently a party to an active final or summary cease-and-desist order. The bill also limits the aggregate amount of public funds that a credit union can receive or have on deposit, at any one time, to 30% of its total assets, based on its latest report to the OSFI or the National Credit Union Administration (NCUA).

The bill prohibits an officer, employee, or agent of the State Board of Deposit or the governing board of any political subdivision from depositing public moneys in an eligible credit union, unless the funds are being placed with the credit union for purposes of a linked deposit program. The bill requires a credit union that receives deposits for the purposes of a linked deposit program to obtain insurance from the NCUA or a credit union share guaranty corporation for the protection of the deposit and pledges securities for the repayment of the deposit, as required under current law for public depositories. However, the bill allows deposits of public moneys in an eligible credit union other than for purposes of a linked deposit program if the credit union obtains insurance for the protection of the deposit from the NCUA or a share guaranty corporation and the total amount the subdivision will have on deposit with the credit union does not exceed the amount insured.

The bill specifies that the State Board of Deposit and the governing board of any political subdivision may designate one or more minority credit unions as public depositories of their public moneys designated as federal funds. The bill defines a "minority credit union" as a credit union that is operated in this state and owned or controlled by an individual who is "socially or economically disadvantaged" because of cultural, ethnic, or racial background, chronic economic circumstances, or other similar cause. This provision is similar to provisions in current law regarding "minority banks."

The bill also allows credit unions to participate in the Capital Access Loan Program and various small business loan guarantee programs that are administered by the Ohio Development Services Agency (ODSA) under O.R.C. sections 122.60 to 122.605. Under the Capital Access Loan Program (CAP), a participating financial institution's risk in making a loan to an eligible business that faces barriers in accessing working capital and fixed financing is mitigated by a deposit into the financial

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<sup>1</sup> "Regulated individuals" means a director, committee member, officer, or employee of a credit union.

institution's CAP Reserve Account. The reserve account is available to cover losses on defaulted loans enrolled in the CAP. Since the inception of CAP in FY 2002 through FY 2013, the program has had 19 participating banks and 1,059 loan enrollments totaling \$89.4 million, according to an official at the ODSA.

### **Fiscal effect**

The provisions allowing certain credit unions to serve as public depositories under certain circumstances would have no direct fiscal impact on the state or local governments. The bill simply expands the type of eligible financial institutions that could become a public depository for public funds and participate in certain state loan programs, thus making them eligible lenders for those programs, but does not require the state or political subdivisions to invest or deposit any public funds in a credit union. Currently, the Board of Deposit designates public depositories for state funds while each governing board of a political subdivision designates its public depositories.

### **Possible indirect fiscal effect**

If state and local officials choose to deposit public funds in such credit unions rather than a financial institution, it may reduce tax revenue under the financial institutions tax (FIT).<sup>2</sup> However, LSC economists consider such potential tax implications indirect fiscal effects. Under current law, all financial institutions, excluding insurance companies, credit unions, and corporations or institutions organized under the Federal Farm Loan Act, are subject to FIT.

The potential reduction in deposits may affect subsequent bank lending and other operational decisions in ways that LSC economists are not able to predict, which may result in potential decreases in banks' total equity, and therefore the tax base. Any FIT tax revenue loss would depend on decisions made by state and local officials on whether to place public funds in such credit unions rather than a financial institution subject to FIT, and the associated reductions in deposits with FIT taxpayers.

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<sup>2</sup> H.B. 510 of the 129th General Assembly eliminated the corporate franchise tax (CFT) on financial institutions and replaced it with the FIT, beginning in tax year 2014.