



Sub. H.B. 473

123rd General Assembly
(As Passed by the General Assembly)

Reps. Myers, Schuler, Allen, Jolivette, Hartnett, Clancy, Olman, Metzger, Distel, Evans, Verich, Maier, D. Miller, Tiberi, Terwilleger, Mead, Goodman, Corbin, Winkler, Patton, O'Brien, Wilson, Salerno, Buehrer, Harris, Calvert, Widener, Boyd, Hoops, Peterson, Barrett, Sullivan, Logan, Redfern, Grendell, Brading, Austria

Sens. Ray, White, Mumper

Effective date: *

ACT SUMMARY

- Modifies collateral pledging requirements for public deposits of the state, a political subdivision, or a county, including pledging requirements relating to the pooling of securities.
- Authorizes political subdivisions to invest in commercial paper notes and bankers acceptances and modifies the authority of county treasurers to invest in similar obligations.
- Modifies investments eligible to be the subject of repurchase agreements invested in by political subdivisions and counties, and appears to eliminate maturity requirements applicable to these agreements.
- Exempts from the general maturity requirement any investment by a county treasurer that is matched to a specific obligation of a political subdivision located wholly or partly within the county.
- Modifies the investment recordkeeping and reporting requirements of county treasurers.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- Authorizes political subdivisions, and modifies the authority of counties, to retain the services of an investment advisor meeting certain requirements.
- Modifies when the State Board of Deposit or a county's board of commissioners must meet to designate public depositories for certain public funds, lengthens the designation period for county active moneys, and permits political subdivisions to designate additional public depositories during a designation period.
- Modifies the authority relating to presentment and payment of warrants by county auditors and by county treasurers.

CONTENT AND OPERATION

Public deposit collateral requirements

(secs. 135.18, 135.181, and 135.37)

Prior and continuing law

Formerly, prior to making a deposit of public funds in a public depository, and as an alternative to pledging eligible securities as collateral, the Treasurer of State, treasurer or governing board of a political subdivision, or a county treasurer could *require* the public depository to deposit surety company bonds with that treasurer or board. These bonds had to represent, when executed, any amount of public funds to be deposited with that depository that were not insured by the Federal Deposit Insurance Corporation (FDIC) or another agency or instrumentality of the federal government.

Under continuing law, eligible *single* securities that may be pledged as collateral generally include (1) United States (U.S.) obligations, (2) bonds, notes, debentures, letters of credit, or other obligations or securities issued by U.S. government agencies or instrumentalities or the Export-Import Bank of Washington, (3) bonds and other obligations of Ohio, (4) bonds and other obligations of counties, townships, school districts, or other taxing subdivisions of Ohio meeting certain requirements, (5) bonds of other states meeting certain requirements, and (6) no-load money market mutual funds of U.S. government-related obligations or repurchase agreements secured by these obligations.

In lieu of these pledging requirements, ongoing law permits a *pool* of specified securities to be pledged for repayment of public fund amounts that exceed FDIC or other insurance amounts. Under prior law, however, if a *pool* of

securities was pledged, the total amount pledged had to equal *110%* of the amount of public funds to be secured by the pool of securities, including amounts that were FDIC or otherwise insured. Relatedly, continuing law authorizes a public depository to substitute, exchange, or release eligible pooled securities; under former law, however, this authority could be exercised only if, as a result, the total value of the pooled, pledged securities was not less than *110%* of the value of the public funds deposited with that public depository, including FDIC or other insured amounts.

Eligible securities to be pooled generally were similar to eligible *single* securities that may be pledged. One exception was that the law also required that the amount pledged when pooling securities be valued at face value or an amount based on face value. Another exception was that the pledging authority for pooling securities additionally included (1) obligations of other states or specified subdivisions of other states if these obligations were secured by the holding in escrow of U.S. obligations secured by the full faith and credit of the U.S., (2) notes representing education loans insured or guaranteed by the U.S. government or a U.S. agency, department, or instrumentality, and (3) other obligations approved by the Treasurer of State at the value specified by the State Treasurer.

The act

The act eliminates the authority of the Treasurer of State, a treasurer or governing board of a political subdivision, or a county treasurer to *require* a public depository to deposit surety company bonds as collateral for public funds. However, to the list of single securities that *may* be pledged as collateral for public deposits, the act adds surety bonds issued by a corporate surety licensed and authorized to issue surety bonds pursuant to the Guaranty and Surety Law and qualified to provide surety bonds to the federal government pursuant to federal law.

In addition, the act eliminates the separate list of securities eligible to be pooled and pledged as collateral for public deposits of the state, a subdivision, or a county. Instead, the act provides that the list of single securities specified in ongoing law as eligible for pledging, and surety bonds issued by corporate sureties eligible for pledging as authorized by the act, also are eligible securities that may be pooled and pledged as collateral for these deposits.

Finally, the act modifies the total value of securities that are pooled and pledged to require that the total *market* value of the pooled securities equals *105%* (rather than *110%*) of the amount of public funds deposited with that public depository, including FDIC or other insured amounts. Similarly, the act provides that if pooled securities are substituted, exchanged, or released by a public

depository, the total *market* value of pooled, pledged securities must not be less than 105% (rather than 110%) of the amount of public funds deposited with that public depository, including FDIC or other insured amounts.

Authority of political subdivisions and counties to invest in commercial paper notes and bankers acceptances

(secs. 135.14(B)(7) and 135.35(A)(8))

Prior law

Under prior law, a political subdivision, other than a county, was not authorized to invest in commercial paper notes or bankers acceptances. A county treasurer could invest in commercial paper meeting specified requirements, including that the total amount invested in commercial paper did not exceed 5% of the county's total average portfolio. A county treasurer also could invest in bankers acceptances meeting specified requirements, including that the total amount invested in the acceptances did not exceed 10% of the county's total average portfolio.¹

The act

The act authorizes a treasurer or governing board of a political subdivision to invest in commercial paper notes or bankers acceptances provided that specified requirements are met. Similarly, the act modifies the prior requirements for investment in commercial paper or bankers acceptances by county treasurers. Under the act, these requirements are the same for treasurers or governing boards of political subdivisions and for county treasurers. Accordingly, the act permits up to 25% of interim moneys available for investment by political subdivisions, or up to 25% of a county's total average portfolio, to be invested in either commercial paper notes or bankers acceptances meeting specified requirements.

With respect to investments in commercial paper notes, the act requires that the notes be issued by an entity that has assets exceeding \$500 million and is a for profit corporation existing under the laws of any state or a business trust or association, real estate investment trust, common law trust, unincorporated

¹ A "banker acceptance" or "bank acceptance" is defined by the Federal Reserve as "a draft or bill of exchange, whether payable in the United States or abroad and whether payable in dollars or some other money, accepted by a bank or trust company or a firm, person, company, or corporation engaged generally in the business of granting bankers' acceptance credits." G. Munn & F.L. Garcia, *Encyclopedia of Banking and Finance* 985 (9th ed. 1991).

business, for profit organization, or a limited liability company existing under the laws of the United States or of any state. The commercial paper notes issued by these entities must have the following qualifications: (1) the notes must be rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services, (2) the aggregate value of the notes must not exceed 10% of the aggregate value of the outstanding commercial paper of the issuing corporation, and (3) the notes must mature not later than 180 days after purchase.

With respect to investments in bankers acceptances, the act requires that the acceptances be issued by banks that are insured by the Federal Deposit Insurance Corporation (FDIC) and that both of the following apply to the acceptances: (1) the obligations are eligible for purchase by the Federal Reserve System, and (2) the obligations mature not later than 180 days after purchase.

However, the act prohibits investment in either commercial paper notes or bankers acceptances by the treasurer or governing board of a political subdivision or a county treasurer, if the treasurer or governing board or the county treasurer has not completed additional training for making these investments. The type and amount of this additional training must be approved by the Auditor of State and may be conducted by or provided under the supervision of the Auditor of State.

Authority of subdivisions and counties to invest in repurchase agreements

(secs. 135.14(D) and (E) and 135.35(C) and (D))

Under ongoing law, a political subdivision or a county treasurer may enter into written repurchase agreements with public depositories. Formerly, only two types of securities were eligible for purchase by the political subdivision or a county treasurer, and for the unconditional repurchase by the public depository: (1) U.S. obligations or securities issued by the U.S. or guaranteed as to principal and interest by the U.S. government, and (2) obligations directly issued by U.S. agencies or instrumentalities. In addition, under former law, a political subdivision or a county treasurer could enter into "term repurchase agreements" meeting specified requirements.

The act expands, from two to five, the types of securities that are eligible for repurchase under *repurchase agreements* invested in by political subdivisions and county treasurers. Thus, in addition to U.S. government, agency, or instrumentality issuances, repurchase agreements also may be for specified U.S. government-related obligations, except letters of credit, eligible to be pledged as collateral for public deposits. In addition, the act apparently eliminates the requirement that investments in these agreements by political subdivisions and by county treasurers mature within five years if not matched to a specific obligation

(see "*Maturity of investments*," below). The act also eliminates references to "term repurchase agreements," and instead designates these investments as "*written* repurchase agreements."

Maturity of investments

(secs. 135.14(D) and 135.35(C))

Under ongoing law, any investment made by a political subdivision must mature within five years after the date of settlement, unless the investment is matched to a specific obligation or debt of the political subdivision. Likewise, investments made by a county treasurer must mature within five years unless the investment is matched to a specific obligation or debt of the county and the investment is approved by the investment advisory committee.

Under the act, an investment by a county treasurer that is approved by the investment advisory committee and is matched to a specific obligation or debt of a *political subdivision located wholly or partly within the county* is also exempt from the general requirement that investments mature within five years.

Investment recordkeeping and reporting requirements of county treasurers

(sec. 135.35(L))

Former law required a county treasurer to maintain a "monthly portfolio report" *and* to provide to a county's investment advisory committee a "quarterly investment report." Both reports apparently included the same or similar information with respect to a description of the investments made, an inventory of investment obligations, transactions affected during the month, income from investments, and certain other information. These reports were public records, made on standard forms approved by the Auditor of State, and filed with a county's board of commissioners.

The act eliminates the requirement that a county treasurer make a *quarterly investment report* to the county's investment advisory committee. Instead, a copy of the monthly portfolio report, which includes the information specified above, must be supplied to the committee. In addition, the act eliminates the requirement that the monthly portfolio report and the required inventory be made on a standard form approved by the Auditor of State, but retains the monthly portfolio report's designation as a public record.

Investment advisors for political subdivisions and counties

(secs. 135.14(N) and 135.341(D))

A county investment advisory committee is authorized under ongoing law to retain the services of an investment advisor meeting specified requirements to assist in investing county public funds. The act modifies one of these requirements and provides the same authority to other political subdivisions.

Specifically, in making investments authorized under ongoing law, a treasurer or governing board of a political subdivision or a county investment advisory committee is authorized to retain the services of an investment advisor, provided the advisor (1) is licensed as an investment adviser by the Division of Securities or is registered with the Securities and Exchange Commission, and (2) possesses experience in public funds investment management, specifically in the area of state and local government investment portfolios. As an alternative to (1) and (2) above, the act requires that the advisor be eligible to become a public depository under ongoing law.

Designation of public depositories by the State Board of Deposit, a political subdivision, and a county's board of commissioners

(secs. 135.12 and 135.33)

Prior law

The State Board of Deposit formerly was required to meet on the third Monday of March in the odd-numbered years to designate public depositories and to award public moneys of the state to these depositories for a two-year period commencing on the first Monday of April. In addition, every two years, a county's board of commissioners had to meet to designate public depositories of "active moneys" of a county for the succeeding two-year period beginning on the date the preceding period expired. At least 60 days prior to the board's meeting, the county treasurer was required to provide an estimate of the amount of active moneys that might be available for deposit over the succeeding two-year period. Under ongoing law, "active moneys" are those moneys necessary to meet current demands on the county treasury (sec. 135.31).

The act

The act modifies the meeting requirements imposed on the State Board of Deposit for the selection of public depositories and the awarding of public funds of the state. Accordingly, the act provides that, beginning in the year 2000, the State Board of Deposit must meet on the third Monday of *June* in the *even-numbered* years to designate public depositories and to award public moneys of the state to these depositories. The moneys are to be awarded for a two-year period commencing on the first Monday of *July*.

A board of county commissioners must meet every *four* years to designate public depositories of a county's active moneys for the succeeding *four-year* period commencing on the date the previous designation expires. The act also provides that, at least 60 days prior to the board's meeting, a county treasurer must provide an estimate of active moneys that might be available for deposit during the succeeding *four-year* period.

In addition, the act specifies that if a governing board other than the State Board of Deposit determines during a designation period that it is necessary and in a political subdivision's best interests to appoint additional depositories, the governing board may meet and designate one or more additional public depositories of the public moneys of the subdivision for the remainder of the designation period.

The act also amends section 129.60 to remove an unnecessary cross-reference to section 135.12 of the Revised Code (relative to the definition of "notes").

Presentment and payment of warrants by county treasurers

(secs. 9.37, 307.55, 319.16, 321.15, 321.16, and 321.17)

Under ongoing law, a county treasurer redeems warrants that are presented for payment from the county treasury or depository provided the warrants meet specified requirements. Payments authorized to be made by issuing a check or warrant also may be paid by public officials by direct deposit of funds if specified requirements are met.

The act adds that the warrant, and all information related to the presentment of the warrant, may be provided electronically to the county treasurer. It also adds that, pursuant to provisions in the Board of County Commissioners, County Auditor, and County Treasurer laws, county auditors may issue and county treasurers may redeem electronic warrants authorizing direct deposit for payment of county obligations, in accordance with rules adopted by the Auditor of State. The act makes similar modifications to the Board of County Commissioners, County Auditor, and County Treasurer laws to authorize payment of public funds for county obligations pursuant to an electronic warrant authorizing direct deposit.

The act also modifies provisions regarding when a warrant is not paid for want of funds. Specifically, the act eliminates former requirements that a warrant be indorsed, signed, and dated by a county treasurer, and instead requires that the county treasurer record the warrant as not paid for want of funds. In addition, it eliminates the former requirement that memoranda of warrants not paid for lack of funds be kept "in a book for that purpose."

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-08-99	p. 1239
Reported, H. Financial Institutions	12-14-99	p. 1463
Passed House (95-0)	01-04-00	pp. 1476-1477
Reported, S. Finance & Financial Institutions	02-15-00	p. 1379
Passed Senate (32-0)	02-16-00	pp. 1405-1406
House concurred in Senate amendments (94-0)	02-16-00	pp. 1610-1611

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