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Bill Analysis
Legislative Service Commission

Sub. H.B. 473

123rd General Assembly

(As Reported by H. Financial Institutions)

**Reps. Myers, Schuler, Allen, Jolivette, Hartnett, Clancy, Olman, Metzger,
Distel, Evans, Verich, Maier, D. Miller**

BILL SUMMARY

- Modifies collateral pledging requirements for public funds of political subdivisions or counties, 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.
- Modifies the investment recordkeeping and reporting requirements of county treasurers.
- 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 county commissioners must meet to designate public depositories for certain public funds, and the authority of political subdivisions to designate additional public depositories during the 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)

Current law

Currently, 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 may require the public depository to deposit surety company bonds with that treasurer or board. These bonds must represent, when executed, any amount of public funds to be deposited with that depository that are not insured by the Federal Deposit Insurance Corporation (FDIC) or another agency or instrumentality of the federal government.

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, existing law permits a *pool* of specified securities to be pledged for repayment of public fund amounts that exceed FDIC or other insurance amounts. If a *pool* of securities are pledged, the total amount pledged must equal 110% of the amount of public funds to be secured by the pool of securities, including amounts that are FDIC or otherwise insured. Relatedly, a public depository is authorized to substitute, exchange, or release eligible pooled securities if, as a result, the total value of the pooled, pledged securities is not less than 110% of the value of the public funds deposited with that public depository, including FDIC or other insurance amounts.

Eligible securities to be pooled generally are similar to eligible *single* securities that may be pledged. One exception is that current law also specifies that the amount pledged when pooling securities must be valued at face value or an amount based on face value. Another exception is that current pledging authority for pooling securities also includes (1) obligations of other states or specified subdivisions of other states if these obligations are 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 bill

The bill 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 bill 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 bill 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 bill provides that the list of single securities specified in existing law as eligible for pledging, and surety bonds issued by corporate sureties eligible for pledging as authorized by the bill, also are eligible securities that may be pooled and pledged as collateral for these deposits.

Finally, the bill modifies the total value of securities that are pooled and pledged to require that the total *market* value of the pooled securities and FDIC or other insurance equals 105% (rather than 110%) of the amount of public funds deposited with that public depository. Similarly, the bill 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 insurance 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))

Current law

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

bankers acceptances meeting specified requirements, including that the total amount invested in the acceptances does not exceed 10% of the county's total average portfolio.¹

The bill

The bill 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 bill modifies the current requirements for investment in commercial paper or bankers acceptances by county treasurers. Under the bill, these requirements are the same for treasurers or governing boards of political subdivisions and for county treasurers. Accordingly, the bill provides that up to 25% of interim moneys available for investment by political subdivisions or up to 25% of a county's total average portfolio may be invested in either commercial paper notes or bankers acceptances meeting specified requirements.

The requirements provided by the bill applicable to investment in commercial paper notes are 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 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.

The requirements applicable to investment in bankers acceptances are 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.

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).

However, the bill 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 bill specifies that 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.

Investment authority of subdivisions and counties to invest in repurchase agreements

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

Current law

Under existing law, any investment made by a political subdivision or county treasurer 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 or county. A political subdivision or a county treasurer also may enter into written repurchase agreements with public depositories. Under these repurchase agreements, the political subdivision or a county treasurer must purchase and the public depository must agree unconditionally to repurchase (1) U.S. obligations or securities issued by the U.S. or guaranteed as to principal and interest by the U.S. government, or (2) obligations directly issued by U.S. agencies or instrumentalities. This investment authority expressly excludes authority to invest in stripped principal or interest obligations. In addition, a political subdivision or a county treasurer also may enter into "term repurchase agreements" meeting specified requirements.

The bill

The bill 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, the bill provides that these 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 bill 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. Also, the bill eliminates references to "term repurchase agreements" and instead designates these investments as "*written repurchase agreements*."

Investment recordkeeping and reporting requirements of county treasurers

(sec. 135.35(L))

A county treasurer is required under current law to maintain a "monthly portfolio report" and to provide to a county's investment advisory committee a "quarterly investment report." Both reports apparently include 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 are public records, on standard forms approved by the Auditor of State, and filed with a county's board of commissioners.

The bill eliminates the requirement that a county treasurer make a *quarterly investment report* to the county's investment advisory committee. Instead, the bill requires that a copy of the monthly portfolio report, that includes specified information currently required, be supplied to the committee. In addition, the bill eliminates the requirement that the monthly portfolio report be made on a standard form approved by the Auditor of State.

Investment advisors for political subdivisions and counties

(secs. 135.14(N) and 135.341)

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

Specifically, in making investments authorized under existing 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 bill specifies that the advisor must be eligible to become a public depository under current law.

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

(secs. 129.60, 135.12, and 135.33)

Current law

Currently, the State Board of Deposit must meet on the third Monday of March in the odd-numbered years to designate public depositories and 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 currently must meet to designate public depositories of "active moneys" of a county for the succeeding two-year period beginning on the date the preceding period expires. In addition, at least 60 days prior to the board's meeting, the county treasurer must provide an estimate of the amount of active moneys that might be available for deposit over the succeeding two-year period. "Active moneys" are those moneys necessary to meet current demands on the county treasury (sec. 135.31).

The bill

The bill modifies the timing upon which the State Board of Deposit must select public depositories and award public funds of the state. Accordingly, the bill 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 award public moneys of the state to these depositories. The period of this designation would be two years commencing on the first Monday of *July*.

In addition, the bill 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.

Under the bill, 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 bill 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.

Presentment and payment of warrants by county treasurers

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

Under existing 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. In addition, under current law, if a warrant is not paid because of lack of money in a particular fund, the county treasurer must indorse the warrant "Not paid for want of funds," sign the warrant, and provide the date the warrant was presented. Finally, current law specifies that a warrant not paid for lack of funds bears interest, and a memorandum of the warrant must be kept in a book of warrants not paid for lack of funds.

The bill adds that the warrant, and all information related to the presentment of the warrant, may be provided electronically to the county treasurer. Also, the bill 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 bill 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 bill also modifies provisions regarding when a warrant is not paid for want of funds. Specifically, the bill eliminates 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, the bill eliminates the 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

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