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Bill Analysis
Legislative Service Commission

H.B. 510
123rd General Assembly
(As Introduced)

Rep. Evans

BILL SUMMARY

- Increases the size of the Credit Union Council, and modifies the qualifications, duties, and responsibilities of its members.

CONTENT AND OPERATION

Membership of the Council

(sec. 1733.329)

Number of members; chairperson

The Credit Union Council currently consists of the Deputy Superintendent for Credit Unions and five members appointed by the Governor with the advice and consent of the Senate. The bill specifies that the Council is created "in the Division of Financial Institutions" of the Department of Commerce, and increases the number of appointed members from five to six. It also designates the Deputy Superintendent as chairperson of the Council. (Under current law, the Council must annually choose a chairperson from its membership.)

Member qualifications

The following chart compares the qualifications of members under current law with those proposed by the bill.

<p style="text-align: center;"><i>CURRENT LAW</i></p> <p style="text-align: center;">Of the 5 appointed members:</p>	<p style="text-align: center;"><i>THE BILL</i></p> <p style="text-align: center;">Of the 6 appointed members:</p>
<p>Three must have at least five years of experience, and be currently serving, as a director, chief executive officer (CEO), or committee member of a credit union having its principal office in Ohio and doing business under the Ohio Credit Unions Law. Of these three members:</p> <p style="padding-left: 40px;">(1) At least one must be a director, CEO, or committee member of a state-chartered, federally insured credit union;</p> <p style="padding-left: 40px;">(2) At least one must be a director, CEO, or committee member of a state-chartered, privately insured credit union;</p> <p style="padding-left: 40px;">(3) At least one must be a director, CEO, or committee member of a credit union with less than \$2 million in assets.</p>	<p>--At least five must have had credit union experience.</p> <p>--At least four must be serving, at the time of appointment, as a director or CEO of a state-chartered credit union having its principal office in Ohio and doing business under the Ohio Credit Unions Law.</p> <p>--At least one must be a director or CEO of a state-chartered, federally insured credit union.</p> <p>--At least one must be a director or CEO of a state-chartered, privately insured credit union.</p> <p>--At least one must be a director or CEO of a state-chartered credit union with \$5 million or less in assets.</p> <p>--At least one must be a director or CEO of a state-chartered credit union with more than \$5 million in assets.</p>
<p>Two must represent the public and cannot be engaged in the management or direction of, or have a financial interest in, a financial institution.</p>	<p>No provision.</p>
<p>Not more than three can be from the same political party.</p>	<p>No provision.</p>

Terms of office; oath

Current terms of office are for five years. Under the bill, terms of office are for three years. The bill prohibits any appointed member from serving more than two consecutive full terms, as does current law. However, under the bill, a member may serve two consecutive full terms following (1) the remainder of a

term for which the member was appointed to fill a vacancy or (2) any term for which the member was appointed prior to the bill's effective date.

Prior to entering upon the duties of membership, each appointed member is currently required to subscribe to and file with the Secretary of State, the constitutional oath of office. The bill removes this requirement.

Meetings; votes; conflicts of interest

Current law. Under current law, the Council is required to meet at least quarterly. The members must be given written notice of the time and location of each meeting at least ten days prior to the scheduled meeting date. A majority of the members of the Council constitutes a quorum to transact and vote on all business; however, the Deputy Superintendent may not vote on field of membership matters on appeal before the Council (see chart below).

The bill. The bill requires the Council to meet at least once *every six months*. Written notice of the time and location of each meeting must be provided at least *two* days prior to the scheduled meeting date, unless the Council by resolution provides for a shorter time. Four members of the Council constitute a quorum to transact and vote on all business coming before the Council.

The Council, by a majority vote of those present at a meeting at which there is a quorum, may adopt and amend bylaws and rules the Council considers necessary and proper. The Council is required to select one of its members as secretary to record all of its proceedings.

Lastly, the bill prohibits a member from participating in a proceeding before the Council involving any credit union of which the member is, or was at any time in the preceding 12 months, a member of the board of directors, an officer, an employee, or a shareholder. A member may refrain from participating for any other cause the member considers sufficient.

Compensation

Current Council members are compensated for any actual and necessary expenses incurred in the discharge of Council duties. The bill states that members are not to receive a salary, but expenses incurred in performance of their duties are to be paid from funds appropriated for that purpose.

Removal

Under existing law, the Governor may remove a member, with the advice and consent of the Senate, if the member is inefficient, is derelict in the discharge

of the member's duties, has used the office corruptly, or for other specified reasons. The bill allows the Governor to remove any of the six appointed members "whenever in the [G]overnor's judgment the public interest requires removal." The Governor is required by the bill to file a statement of the cause for removal with the Superintendent of Financial Institutions.

Duties of the Council

(secs. 1733.32(E) and 1733.3210; Section 3)

Existing law authorizes the Credit Union Council to undertake certain duties, and mandates that it undertake others. As shown in the following chart, the bill modifies those duties, adds additional ones, and makes the performance of each duty mandatory.

<i>CURRENT LAW</i> The Council <i>may</i> do the following:	<i>THE BILL</i> The Council <i>must</i> do the following:
Advise the Superintendent of Financial Institutions and the Deputy Superintendent for Credit Unions on matters relating to the regulation, examination, safety and soundness, and applications of credit unions.	Same, but adds <i>field of membership</i> to the matters upon which advice is to be given.
Hear appeals from final decisions of the Superintendent or Deputy Superintendent regarding <i>fields of membership</i> , and issue determinations affirming, modifying, vacating, or reversing those decisions.	No provision.
Submit to the Governor recommendations concerning amendments to the Credit Unions Law, or rules adopted thereunder.	Same.
The Council <i>must</i> do the following:	
Advise the Superintendent or Deputy Superintendent concerning the development and proposal of rules affecting credit unions, and <i>conduct</i> the	<i>Be present</i> at the public hearings required for the adoption, amendment, or recession of rules, and provide recommendations at the hearings.

<i>CURRENT LAW</i> The Council <i>may</i> do the following:	<i>THE BILL</i> The Council <i>must</i> do the following:
public hearings required for the adoption, amendment, or rescission of rules.	
No provision.	Consider and make recommendations upon any matter addressed in the Credit Unions Law or the Credit Union Guaranty Corporations Law that the Superintendent or Deputy Superintendent submits to the Council for that purpose.
No provision.	Pass upon and determine any matter the Superintendent or Deputy Superintendent submits to the Council for determination.
No provision.	Consider and determine whether to confirm the supervisory fees proposed by the Superintendent (see below).

As noted above, the bill requires the Superintendent to annually present to the Council for confirmation the supervisory fees to be billed credit unions and corporate credit unions. (See **COMMENT.**) If during the period between the Council's confirmation and when the fees are collected, the Council determines additional money is required to adequately fund the operations of the Division of Financial Institutions for that fiscal year, the bill permits the Council, by the affirmative vote of five of its members, to increase the fees billed. The Superintendent promptly must notify each credit union and corporate credit union of the increased supervisory fees, and each credit union or corporate credit union must pay the increased fees.

Finally, the bill requires the current Council to conclude, within 60 days after the bill's effective date, any pending matters for which the Council was responsible under current law and for which the Council is not responsible under the bill.

Liability

(sec. 1733.3210(B))

The bill states that neither the Deputy Superintendent, nor any other member of the Credit Union Council, can be held liable, in any civil or criminal action or proceeding, for any mistake of judgment or discretion in any action taken, or in any omission made, in good faith by the Deputy Superintendent or other member.

COMMENT

Under current law, supervisory fees are determined by the Superintendent of Financial Institutions based on a percentage of the gross assets of a credit union as shown by its last annual financial report. For corporate credit unions, the aggregate annual amount of the fee cannot exceed the annual operating fee that the National Credit Union Administration charges a federally chartered credit union. The total amount of each semiannual billing to all credit unions and corporate credit unions combined must equal one-half of the appropriation made by the main operating appropriation act to the Division of Financial Institutions for the regulation of credit unions for the fiscal year in which the billings occur. (Sec. 1733.32(E).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-29-99	p. 1375

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