



# Ohio Legislative Service Commission

## Bill Analysis

Bethany Boyd

### Am. H.B. 221\*

130th General Assembly

(As Reported by H. State and Local Government)

**Reps.** Terhar and Heard, Butler, Boyd, Gerberry, Becker, Perales, Lundy, Baker, Retherford, Mallory, Fedor, Young, Cera, Boose, Letson, Williams, Foley, Anielski

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## BILL SUMMARY

- Permits credit unions to serve as public depositories of state and political subdivision funds, subject to the following conditions:
  - (1) Except as provided in (2), below, the state or a political subdivision may deposit public moneys in a credit union only if the funds are being deposited for purposes of a linked deposit program established under the Uniform Depository Law, the deposit is protected by insurance (currently, \$250,000 per depositor), and the credit union pledges securities for repayment of the deposit in excess of the amount insured.
  - (2) A political subdivision may deposit public moneys in a credit union *other than* for purposes of a linked deposit program, if the deposit is protected by insurance and the total amount the political subdivision will have on deposit with the credit union does not exceed the amount insured.
- Restricts a credit union from receiving or having on deposit, at any one time, public moneys that, in the aggregate, exceed 30% of its total assets.
- Authorizes the State Board of Deposit and the governing board of any political subdivision (other than a county) to designate minority credit unions as public depositories of their public moneys that are designated as federal funds.

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\* This analysis was prepared before the report of the House State and Local Government Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Expands the investment authority of political subdivisions by allowing them to make their investments through credit unions.
- Permits the state and political subdivisions to invest public moneys in share certificates of credit unions.
- Permits credit unions to participate in the Development Services Agency's Capital Access Loan Program and its various small business loan guarantee programs.

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## **CONTENT AND OPERATION**

### **Application of the Uniform Depository Law to credit unions**

#### **Deposit of public funds**

##### **Overview**

The bill makes credit unions eligible to become public depositories of state and political subdivision funds. Generally, credit unions are nonprofit cooperative financial institutions that operate for the mutual benefit and general welfare of their members. Currently, under the Uniform Depository Law (R.C. Chapter 135.), only the following financial institutions are eligible to become public depositories:

--National banks, and banks doing business under authority granted by the Superintendent of Financial Institutions or by the regulatory authority of another state, and located in Ohio;

--Federal savings associations, savings and loan associations, and savings banks chartered under Ohio law or under the law of any other state, and located in Ohio.<sup>1</sup>

"Political subdivision" includes municipal corporations, school districts, townships, or other local authorities that elect or appoint a treasurer, except a county.<sup>2</sup> Counties have their own Uniform Depository Law,<sup>3</sup> which is also changed by the bill to make credit unions eligible to become public depositories of county funds.

##### **Credit unions as public depositories**

The bill provides that each of the following types of credit unions, subject to certain conditions, is eligible to become a public depository:

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<sup>1</sup> R.C. 135.03 and 135.32.

<sup>2</sup> See the definition of "subdivision" in R.C. 135.01(L).

<sup>3</sup> R.C. 135.31 to 135.40.



- (1) A federal credit union located in Ohio;
- (2) A credit union that is chartered under the laws of another state, is located in Ohio, and is licensed by the Superintendent of Credit Unions as a foreign credit union;
- (3) An Ohio chartered credit union located in Ohio.<sup>4</sup>

A credit union that is otherwise eligible to become a public depository is not eligible if the credit union or any of its directors, committee members, officers, or employees is currently a party to an active final or summary cease-and-desist order issued by the Superintendent of Credit Unions.<sup>5</sup>

### **Minority credit unions as public depositories of federal funds**

Under the bill, the State Board of Deposit and the governing board of any political subdivision (other than a county) may designate one or more minority credit unions as public depositories of their public moneys designated as federal funds. Currently, only minority banks may be utilized for this purpose.

The bill's definition of minority credit union is modeled after the definition provided under continuing law for minority bank: a "minority credit union" is a credit union operating in Ohio that is owned or controlled by one or more socially or economically disadvantaged persons. A disadvantage may arise from cultural, ethnic, or racial background, chronic economic circumstances, or other similar cause.<sup>6</sup>

### **Limitations on public money deposits**

Generally, the bill prohibits an officer, employee, or agent of the state or of a political subdivision, including counties, from depositing public moneys in a credit union *unless* (1) the funds are being deposited for purposes of a linked deposit program<sup>7</sup> established under the Uniform Depository Law, (2) the credit union obtains insurance for the protection of the deposit from the National Credit Union Administration (NCUA) or a credit union share guaranty corporation (currently, the amount insured is \$250,000 per depositor), *and* (3) the credit union pledges securities for the repayment of

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<sup>4</sup> R.C. 135.03(C), 135.32(C), and 1733.04.

<sup>5</sup> R.C. 135.032 and 135.321; R.C. 1733.01 and 1733.324, not in the bill.

<sup>6</sup> R.C. 135.04(F).

<sup>7</sup> These programs typically require the Treasurer of State to place a certificate of deposit with an eligible lending institution at a rate below current market rates, and the institution agrees to lend the value of the deposit to eligible entities for which the program is created.



any deposit in excess of the amount insured, as required under continuing law for public depositories.<sup>8</sup>

There is an exception, however, for deposits made by officers, employees, or agents of political subdivisions, including counties. Deposits of their public moneys may be made *other than for purposes of a linked deposit program*, if the total amount the political subdivision will have on deposit with the credit union does not exceed the amount insured by the NCUA or a credit union share guaranty corporation (currently, \$250,000 per depositor), and the credit union obtains insurance for the protection of the deposit from the NCUA or a credit union share guaranty corporation, as applicable.<sup>9</sup>

### **Restriction on total assets**

The bill restricts a credit union, as a public depository from receiving or having on deposit at any one time public moneys that, in the aggregate, are more than 30% of its total assets. The total assets referred to are those shown in the credit union's latest report to the Superintendent of Financial Institutions or the NCUA.<sup>10</sup>

### **Conforming changes**

The bill makes conforming changes to the Credit Union Law to support credit union eligibility to receive deposits of public money.<sup>11</sup> In addition, the bill makes the following provisions of the Uniform Depository Law apply to credit unions: (1) application procedures for designation as a public depository, (2) pledge of security by a public depository for the repayment of all deposited public money above the amount insured, (3) holding of county funds needed to pay the principal and interest on bonds, and (4) default of public depositories.<sup>12</sup>

### **Investment of public funds**

The Uniform Depository Law governs the investment of public funds, as well as the deposit of those funds. The state or a political subdivision (other than a county) may invest interim moneys,<sup>13</sup> and a county may invest inactive moneys<sup>14</sup> or money in the

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<sup>8</sup> R.C. 135.031(A), 135.18, 135.322(A), and 135.37.

<sup>9</sup> R.C. 135.031(B) and 135.322(B).

<sup>10</sup> R.C. 135.03 and 135.32.

<sup>11</sup> R.C. 1733.04, 1733.041, 1733.24, 1733.30, and 1733.31.

<sup>12</sup> R.C. 135.06, 135.08, 135.10, 135.18, 135.33, 135.37, 135.51, 135.52, and 135.53.

<sup>13</sup> Generally, interim moneys are moneys that are not deposited as active or inactive deposits because they are not needed for immediate use, but will be needed before the end of a designated period. R.C. 135.01, not in the bill.



county public library fund, in certain classifications of obligations. And, in general, those investments may be made only through specified institutions, such as banks, savings banks, and savings and loan institutions regulated under state or federal law. Under the bill, those investments also may be made through state chartered credit unions and federal credit unions.<sup>15</sup>

The bill also permits the state and political subdivisions (other than counties) with respect to interim moneys, and counties with respect to inactive moneys, to invest in share certificates of a credit union insured by NCUA or a credit union share guaranty corporation. The investment must be made in accordance with the procedures set forth in existing law for the investment of such moneys in certificates of deposit of federally insured banks, savings banks, and savings and loan associations.<sup>16</sup>

## **Participation of credit unions in state loan programs**

### **Capital Access Loan Program**

The Development Services Agency's Capital Access Loan Program assists participating financial institutions in making loans to eligible businesses that face barriers in accessing working capital and obtaining fixed asset financing. The bill amends the definition of "financial institution" for purposes of the Program to include (1) any credit union that is chartered by and has a significant presence in Ohio and (2) any federal credit union that has a significant presence in Ohio.<sup>17</sup>

### **Small business loan guarantee programs**

The Agency may guarantee loans made to small businesses by financial institutions for purposes of procuring or improving real or personal property for industrial, distribution, commercial, or research facility development in Ohio. The bill expands the definition of "financial institution" to include credit unions.<sup>18</sup>

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<sup>14</sup> "Inactive moneys" are public moneys in public depositories in excess of the amount determined to be needed as active moneys. R.C. 135.31, not in the bill.

<sup>15</sup> R.C. 135.14 and 135.35.

<sup>16</sup> R.C. 135.011, 135.144, and 135.353.

<sup>17</sup> R.C. 122.60.

<sup>18</sup> R.C. 122.71. (See also R.C. 122.77, not in the bill.)



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## HISTORY

### ACTION

### DATE

Introduced  
Reported, H. State and Local Government

06-25-13  
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