

HOUSE BILL REPORT

HB 2640

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to public funds and deposits.

Brief Description: Concerning public funds and deposits.

Sponsors: Representatives Kirby, Vick and Stanford; by request of State Treasurer.

Brief History:

Committee Activity:

Business & Financial Services: 1/27/16, 2/2/16 [DPS].

Brief Summary of Substitute Bill

- Changes the definitions of certain terms related to the Public Deposit Protection Commission and public depositories.
- Makes related changes and clarifications concerning public depositories.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Stanford, Vice Chair; Vick, Ranking Minority Member; McCabe, Assistant Ranking Minority Member; Blake, Dye, Hurst, Kochmar, Ryu, Santos and G. Hunt.

Staff: Peter Clodfelter (786-7127).

Background:

Public funds may only be deposited in financial institutions that the Public Deposit Protection Commission (Commission) has approved as public depositories. Established in 1969, the Commission is comprised of the Governor, the Lieutenant Governor, and the State Treasurer. The State Treasurer chairs the Commission and provides administrative support.

The Commission is responsible for protecting all public funds deposited in public depositories. A public depository is a financial institution that does not claim exemption from

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the payment of any sales or compensating use or ad valorem taxes under Washington law, that has been approved by the Commission to hold public deposits, and that has segregated for the benefit of the Commission eligible collateral having a value of not less than the financial institution's maximum liability. Financial institutions are defined as any national or state-chartered commercial bank or trust company, savings bank, or savings association, or branch or branches thereof, located in Washington. Pursuant to authorization added in 2010 and 2012, state and federal credit unions may act as limited public depositories of funds for public agencies, up to the maximum amount insured by the National Credit Union Share Insurance Fund, which is currently \$250,000.

Public funds are those moneys belonging to or held for the state, its political subdivisions, municipal corporations, agencies, courts, boards, commissions, or committees, and includes moneys held in trust. All public funds deposited in public depositories, including investment deposits and accrued interest on such investment deposits, must be protected against loss. Investment deposits are time deposits, money market deposit accounts, and savings deposits of public funds available for investment. Time deposits must bear interest at a rate not in excess of the maximum rate permitted by any applicable government regulation.

The eligible collateral that every public depository must at all times maintain pursuant to a depository pledge agreement with the Commission and a trustee must be segregated by deposit with the public depository's trustee and must be clearly designated as security for the benefit of public depositors. A trustee is a third-party safekeeping agent that has completed a depository pledge agreement with a public depository and the Commission. Such a third-party safekeeping agent may be the Federal Reserve Bank of San Francisco, the Federal Home Loan Bank of Seattle, or such other third-party safekeeping agent approved by the Commission.

Eligible collateral that the Commission may accept is defined as specific classes of securities:

- certificates, notes, or bonds of the United States;
- state, county, municipal, or school district bonds or warrants of taxing districts of any state in the United States;
- bonds, notes, letters of credit, or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or federal reserve bank;
- revenue bonds of Washington or any authority, board, commission, committee, or similar agency of Washington, and any municipality or taxing district of this state;
- direct and general obligation bonds and warrants of any city, town, county, school district, port district, or other political subdivision of any state, having the power to levy general taxes, which are payable from general ad valorem taxes;
- bonds issued by public utility districts; and
- bonds of any city of the State of Washington for the payment of which the entire revenues of the city's water system, power and light system, or both, less maintenance and operating costs, are irrevocably pledged, even though such bonds are not general obligations of such city.

The Commission may determine by rule or resolution whether any security is or will remain eligible as collateral when it is desirable or necessary to do so in the Commission's judgment.

The Director of the Department of Revenue must notify the Commission quarterly on the first day of October, January, April, and July of the names and addresses of any financial institutions that have claimed exemption from the payment of any sales or compensating use or ad valorem taxes under Washington law.

Summary of Substitute Bill:

When the Commission accepts a letter of credit from a federal bank or a federal reserve bank as eligible collateral from a public depository, the letter of credit is not subject to a completed depository pledge agreement and, accordingly, the Commission must act as the safekeeping agent of the letter of credit rather than a trustee.

The definition of "public depository" is amended to harmonize the definition with the separate authorization for credit unions to act as public depositories in a limited scope. The requirement that the Director of the Department of Revenue must notify the Commission quarterly on the first day of October, January, April, and July of the names and addresses of any financial institutions that have claimed exemption from the payment of any sales or compensating use or ad valorem taxes under Washington law is removed.

It is clarified that investment deposits do not include time deposits represented by a transferable or negotiable certificate, instrument, passbook, or statement, or by book entry or otherwise.

The definition of "trustee" is amended so that eligible trustees include all federal home loan banks or other third-party safekeeping agents approved by the Commission, instead of specifically the Federal Reserve Bank of San Francisco and the Federal Home Loan Bank of Seattle or other third-party safekeeping agents approved by the Commission.

A reference to an obsolete federal agency is removed.

The requirement that time deposits must bear interest at a rate not in excess of the maximum rate permitted by any applicable government regulation is removed.

Substitute Bill Compared to Original Bill:

The requirement that a financial institution must not claim exemption from the payment of any sales or compensating use or ad valorem taxes under Washington law if the financial institution is to qualify as a public depository is restored. The definition of "public depository" is harmonized with the separate authorization for credit unions to act as public depositories in a limited scope.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is a request of the State Treasurer. It makes various improvements and technical fixes to the statutes addressing the Commission. References to specific banks are changed to general references, because specifically named banks have merged and no longer exist. Also, the reference to a now nonexistent federal agency, the Office of Thrift Supervision, is removed. The bill clarifies who holds a letter of credit when a letter of credit is used as collateral by a public depository, which is common. It makes sense for the Commission to be the safe-keeper of the letter of credit, rather than a trustee. The definition of "public depository" is changed to be consistent with the Legislature's separate authorization for credit unions to act as public depositories. There is an agreed-upon committee amendment to clarify that this change to the definition of "public depository" is technical. None of the changes in the bill are intended to be policy changes.

(Opposed) None.

(Other) It is appreciated that the State Treasurer brought this bill forward to improve the statutes. The recent economic downturn demonstrates that the Public Deposit Protection Commission is a necessary entity. There is one concern with the change to the definition of "public depository" to reference the Legislature's authorization in 2010 and 2012 for credit unions to act as public depositories. However, the committee amendment referred to in testimony adequately addresses this concern and retains the underlying policy principle while still making the statute consistent.

Persons Testifying: (In support) Brad Tower, Community Bankers of Washington.

(Other) Wolf Opitz, Office of the State Treasurer.

Persons Signed In To Testify But Not Testifying: None.