
SENATE BILL 5579

State of Washington

61st Legislature

2009 Regular Session

By Senators McDermott and Oemig

Read first time 01/27/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to the deposit of public funds; and amending RCW
2 39.58.010, 35.38.060, 35.58.510, 36.48.060, and 43.08.280.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 39.58.010 and 1996 c 256 s 1 are each amended to read
5 as follows:

6 In this chapter, unless the context otherwise requires:

7 (1) "Public funds" means moneys under the control of a treasurer or
8 custodian belonging to, or held for the benefit of, the state or any of
9 its political subdivisions, public corporations, municipal
10 corporations, agencies, courts, boards, commissions, or committees,
11 including moneys held as trustee, agent, or bailee;

12 (2) "Public depository" means a financial institution (~~which does~~
13 ~~not claim exemption from the payment of any sales or compensating use~~
14 ~~or ad valorem taxes under the laws of this state,)~~) which has been
15 approved by the commission to hold public deposits, and which has
16 segregated for the benefit of the commission eligible collateral having
17 a value of not less than its maximum liability. Addition of the word
18 "bank" denotes a bank, trust company, or national banking association
19 and the word "thrift" denotes a savings association or savings bank;

1 (3) "Loss" means the issuance of an order by a regulatory or
2 supervisory authority or a court of competent jurisdiction (a)
3 restraining a public depository from making payments of deposit
4 liabilities or (b) appointing a receiver for a public depository;

5 (4) "Commission" means the Washington public deposit protection
6 commission created under RCW 39.58.030;

7 (5) "Eligible collateral" means securities which are enumerated in
8 RCW 39.58.050 (5) and (6) as eligible collateral for public deposits;

9 (6) The "maximum liability" of a public depository on any given
10 date means a sum equal to ten percent of (a) all public deposits held
11 by the ~~((qualified))~~ public depository on the then most recent
12 commission report date, or (b) the average of the balances of said
13 public deposits on the last four immediately preceding reports required
14 pursuant to RCW 39.58.100, whichever amount is greater, less any
15 assessments paid to the commission pursuant to this chapter since the
16 then most recent commission report date;

17 (7) "Public funds available for investment" means such public funds
18 as are in excess of the anticipated cash needs throughout the duration
19 of the contemplated investment period;

20 (8) "Investment deposits" means time deposits, money market deposit
21 accounts, and savings deposits of public funds available for
22 investment;

23 (9) "Treasurer" shall mean the state treasurer, a county treasurer,
24 a city treasurer, a treasurer of any other municipal corporation, and
25 any other custodian of public funds;

26 (10) "Financial institution" means ~~((any))~~ a national or
27 state-chartered commercial bank or trust company, savings bank, ~~((or))~~
28 savings association, or federal or state-chartered credit union, or
29 branch or branches thereof, located in this state and lawfully engaged
30 in business;

31 (11) "Commission report" means a formal accounting rendered by all
32 public depositories to the commission in response to a demand for
33 specific information made by the commission detailing pertinent affairs
34 of each public depository as of the close of business on a specified
35 date, which is the "commission report date." "Commission report due
36 date" is the last day for the timely filing of a commission report;

37 (12) "Director of financial institutions" means the Washington
38 state director of the department of financial institutions;

1 (13) "Net worth" of a public depository means (a) the equity
2 capital as reported to its primary regulatory authority on the
3 quarterly report of condition or statement of condition and may include
4 capital notes and debentures which are subordinate to the interests of
5 depositors, or (b) equity capital adjusted by rule of the commission;

6 (14) "Depository pledge agreement" means a tripartite agreement
7 executed by the commission with a financial institution and its
8 designated trustee. Such agreement shall be approved by the directors
9 or the loan committee of the financial institution and shall
10 continuously be a record of the financial institution. New securities
11 may be pledged under this agreement in substitution of or in addition
12 to securities originally pledged without executing a new agreement;

13 (15) "Trustee" means a third-party safekeeping agent which has
14 completed a depository pledge agreement with a public depository and
15 the commission. Such third-party safekeeping agent may be the federal
16 reserve bank of San Francisco, the federal home loan bank of Seattle,
17 the trust department of the public depository, or such other third-
18 party safekeeping agent approved by the commission.

19 **Sec. 2.** RCW 35.38.060 and 1984 c 177 s 4 are each amended to read
20 as follows:

21 "Financial institution," as used in the foregoing provisions of
22 this chapter, means a branch of a bank engaged in banking in this state
23 in accordance with RCW 30.04.300, and any state bank or trust company,
24 national banking association, stock savings bank, mutual savings bank,
25 (~~(or)~~) savings and loan association, or credit union, which institution
26 is located in this state and lawfully engaged in business.

27 **Sec. 3.** RCW 35.58.510 and 1965 c 7 s 35.58.510 are each amended to
28 read as follows:

29 All banks, trust companies, bankers, savings banks, and
30 institutions, building and loan associations, savings and loan
31 associations, credit unions, investment companies and other persons
32 carrying on a banking or investment business, all insurance companies,
33 insurance associations, and other persons carrying on an insurance
34 business, and all executors, administrators, curators, trustees and
35 other fiduciaries, may legally invest any sinking funds, moneys, or
36 other funds belonging to them or within their control in any bonds or

1 other obligations issued by a metropolitan municipal corporation
2 pursuant to this chapter. Such bonds and other obligations shall be
3 authorized security for all public deposits. It is the purpose of this
4 section to authorize any persons, political subdivisions and officers,
5 public or private, to use any funds owned or controlled by them for the
6 purchase of any such bonds or other obligations. Nothing contained in
7 this section with regard to legal investments shall be construed as
8 relieving any person of any duty of exercising reasonable care in
9 selecting securities.

10 **Sec. 4.** RCW 36.48.060 and 1984 c 177 s 9 are each amended to read
11 as follows:

12 "Financial institution," whenever it occurs in RCW 36.48.010
13 through 36.48.050, means a branch of a bank engaged in banking in this
14 state in accordance with RCW 30.04.300, and any state bank or trust
15 company, national banking association, stock savings bank, mutual
16 savings bank, ~~((or))~~ savings and loan association, or credit union,
17 which institution is located in this state and lawfully engaged in
18 business.

19 **Sec. 5.** RCW 43.08.280 and 1999 c 293 s 2 are each amended to read
20 as follows:

21 (1) The state treasurer is authorized to negotiate a statewide
22 custody contract for custody services for local governments and
23 institutions of higher education. The term of the contract shall be
24 for a minimum of four years.

25 (2) The state treasurer shall, as soon as is practical after
26 negotiations have been successfully completed, notify local governments
27 and institutions of higher education that a statewide custody contract
28 has been negotiated.

29 (3) Following such notification, each local government or
30 institution of higher education may, at its option, become a signatory
31 to the statewide contract. Each local government or institution of
32 higher education may only become a signatory to the contract by having
33 its authorized local government official or financial officer and the
34 statewide custodian execute the statewide contract. The contract is
35 between the statewide custodian and the respective local government or
36 institution of higher education. It is the responsibility of the local

1 government official or financial officer to fully understand the terms
2 and conditions of the statewide custody contract prior to its
3 execution, and to ensure those terms and conditions are observed by the
4 statewide custodian during the term of the contract.

5 (4) The state treasurer may adopt rules to implement this section,
6 including, but not limited to, those rules deemed necessary to provide
7 for an orderly transition in the event of a different statewide
8 custodian in a new statewide custody contract.

9 (5) Any statewide custodian who becomes a signatory to the
10 statewide custody contract may be exempted from the requirements of
11 chapter 39.58 RCW for the purposes of this section, based on rules
12 adopted by the public deposit protection commission.

13 (6) For the purposes of this section:

14 (a) "Financial institution" means a bank, credit union, or trust
15 company chartered and supervised under state or federal law;

16 (b) "Local government" means any county, city, town, special
17 purpose district, political subdivision, municipal corporation, or
18 quasi-municipal corporation, including any public corporation created
19 by such an entity, which legally possesses and exercises investment
20 authority;

21 (c) "Statewide custody contract" means a contract negotiated
22 between the state treasurer and a financial institution that
23 establishes terms and fees for custody services which are optional to
24 any local government for the term of the contract;

25 (d) "Statewide custodian" means the financial institution with whom
26 the state treasurer has negotiated a statewide custody contract;

27 (e) "Custody services" means services performed by a financial
28 institution such as the settlement, safekeeping, valuation, and market-
29 value reporting of negotiable instruments owned by the local
30 government;

31 (f) "Local government official" means any officer or employee of a
32 local government who has been designated by statute or local charter,
33 ordinance, or resolution as the officer having the authority to invest
34 the funds of the local government. However, the county treasurer is
35 the only local government official for all political subdivisions for
36 which the county treasurer has statutory or contractual authority to
37 invest the funds thereof;

1 (g) "Financial officer" means the board-appointed treasurer of a
2 college, university, community or technical college district, or the
3 state board for community and technical colleges.

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