

Brief Summary of Proposed Substitute HB 1209
H-1412.2
Rep. Kirby
Concerning municipal access to local financial services.

Summary of Substitute Bill:

- Provisions relating to minimum participation and maximum liability for credit unions accepting public funds are removed.
- The Washington Public Deposit Protection Commission will maintain a single public depository pool rather than creating a separate risk pool for credit unions.
- The National Credit Union Association, which regulates and charters federal credit unions, is added as a source of information the Washington State Department of Financial Institutions may rely upon for investigation and examination of public depositories.

1 AN ACT Relating to municipal access to local financial services;
2 amending RCW 39.58.010 and 39.58.105; and repealing RCW 39.58.240.

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

4 **Sec. 1.** RCW 39.58.010 and 2016 c 152 s 1 are each amended to
5 read as follows:

6 In this chapter, unless the context otherwise requires:

7 (1) "Capitalization" means the measure or measures of
8 capitalization, other than net worth, of a depository applying for
9 designation as or operating as a public depository pursuant to this
10 chapter, based upon regulatory standards of financial institution
11 capitalization adopted by rule or resolution of the commission after
12 consultation with the director of the department of financial
13 institutions;

14 (2) "Collateral" means the particular assets pledged as security
15 to insure payment or performance of the obligations under this
16 chapter as enumerated in RCW 39.58.050;

17 (3) "Commission" means the Washington public deposit protection
18 commission created under RCW 39.58.030;

19 (4) "Commission report" means a formal accounting rendered by all
20 public depositories to the commission in response to a demand for
21 specific information made by the commission detailing pertinent

1 affairs of each public depository as of the close of business on a
2 specified date, which is the "commission report date." "Commission
3 report due date" is the last day for the timely filing of a
4 commission report;

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

12 (6) "Director of the department of financial institutions" means
13 the Washington state director of the department of financial
14 institutions;

15 (7) "Eligible collateral" means the securities or letters of
16 credit enumerated in RCW 39.58.050 (5), (6), and (7);

17 (8) "Financial institution" means any national or state chartered
18 commercial bank or trust company, savings bank, ((~~or~~)) savings
19 association, or federal or state chartered credit union, or branch or
20 branches thereof, located in this state and lawfully engaged in
21 business;

22 (9) "Investment deposits" means time deposits, money market
23 deposit accounts, and savings deposits of public funds available for
24 investment. "Investment deposits" do not include time deposits
25 represented by a transferable or a negotiable certificate,
26 instrument, passbook, or statement, or by book entry or otherwise;

27 (10) "Liquidity" means the measure or measures of liquidity of a
28 depository applying for designation as or operating as a public
29 depository pursuant to this chapter, based upon regulatory standards
30 of financial institution liquidity adopted by rule or resolution of
31 the commission after consultation with the director of the department
32 of financial institutions;

33 (11) "Loss" means the issuance of an order by a regulatory or
34 supervisory authority or a court of competent jurisdiction (a)
35 restraining a public depository from making payments of deposit
36 liabilities or (b) appointing a receiver for a public depository;

37 (12) "Maximum liability," with reference to a public depository's
38 liability under this chapter for loss per occurrence by another
39 public depository, on any given date means:

40 (a) A sum equal to ten percent of:

1 (i) All uninsured public deposits held by a public depository
2 that has not incurred a loss by the then most recent commission
3 report date; or

4 (ii) The average of the balances of said uninsured public
5 deposits on the last four immediately preceding reports required
6 pursuant to RCW 39.58.100, whichever amount is greater; or

7 (b) Such other sum or measure as the commission may from time to
8 time set by resolution according to criteria established by rule,
9 consistent with the commission's broad administrative discretion to
10 achieve the objective of RCW 39.58.020.

11 As long as the uninsured public deposits of a public depository
12 are one hundred percent collateralized by eligible collateral as
13 provided for in RCW 39.58.050, the "maximum liability" of a public
14 depository that has not incurred a loss may not exceed the amount set
15 forth in (a) of this subsection.

16 This definition of "maximum liability" does not limit the
17 authority of the commission to adjust the collateral requirements of
18 public depositories pursuant to RCW 39.58.040;

19 (13) "Net worth" of a public depository means (a) the equity
20 capital as reported to its primary regulatory authority on the
21 quarterly report of condition or statement of condition, or other
22 required report required by its primary regulatory authority or
23 federal deposit insurer, and may include capital notes and debentures
24 which are subordinate to the interests of depositors, or (b) equity
25 capital adjusted by rule or resolution of the commission after
26 consultation with the director of the department of financial
27 institutions;

28 (14) "Public deposit" means public funds on deposit with a public
29 depository;

30 (15) "Public depository" means a financial institution that has
31 been approved by the commission to hold public deposits, and has
32 segregated, for the benefit of the commission, eligible collateral
33 having a value of not less than its maximum liability(~~(, and, unless~~
34 ~~otherwise provided for in this chapter, does not claim exemption from~~
35 ~~the payment of any sales or compensating use or ad valorem taxes~~
36 ~~under the laws of this state));~~

37 (16) "Public funds" means moneys under the control of a
38 treasurer, the state treasurer, or custodian belonging to, or held
39 for the benefit of, the state or any of its political subdivisions,
40 public corporations, municipal corporations, agencies, courts,

1 boards, commissions, or committees, including moneys held as trustee,
2 agent, or bailee belonging to, or held for the benefit of, the state
3 or any of its political subdivisions, public corporations, municipal
4 corporations, agencies, courts, boards, commissions, or committees;

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

8 (18) "State public depository" means a Washington state-chartered
9 financial institution that is authorized as a public depository under
10 this chapter;

11 (19) "State treasurer" means the treasurer of the state of
12 Washington;

13 (20) "Treasurer" means a county treasurer, a city treasurer, a
14 treasurer of any other municipal corporation, and any other custodian
15 of public funds, except the state treasurer;

16 (21) "Trustee" means a third-party safekeeping agent which has
17 completed a depository pledge agreement with a public depository and
18 the commission. Such third-party safekeeping agent may be a federal
19 home loan bank, or such other third-party safekeeping agent approved
20 by the commission.

21 **Sec. 2.** RCW 39.58.105 and 2016 c 152 s 3 are each amended to
22 read as follows:

23 (1) The commission may require the state auditor or the director
24 of the department of financial institutions, to the extent of their
25 respective authority under applicable federal and Washington state
26 law, to thoroughly investigate and report to it concerning the
27 condition of any financial institution which makes application to
28 become a public depository, and may also as often as it deems
29 necessary require the state auditor or the director of the department
30 of financial institutions, to the extent of their respective
31 authority under applicable federal and Washington state law, to make
32 such investigation and report concerning the condition of any
33 financial institution which has been designated as a public
34 depository. The expense of all such investigations or reports shall
35 be borne by the financial institution examined.

36 (2) In lieu of any such investigation or report, the commission
37 may rely upon information made available to it or the director of the
38 department of financial institutions by the office of the comptroller
39 of the currency, the national credit union administration, the

1 federal deposit insurance corporation, the federal reserve board, any
2 state financial institutions regulatory agency, or any successor
3 state or federal financial institutions regulatory agency, and any
4 such information or data received by the commission shall be kept and
5 maintained in the same manner and have the same protections as
6 examination reports received by the commission from the director of
7 the department of financial institutions pursuant to RCW
8 30A.04.075(2)(h) (~~and~~), 32.04.220(2)(h), and 31.12.565(2)(j).

9 (3) The director of the department of financial institutions
10 shall in addition advise the commission of any action he or she has
11 directed any state public depository to take which will result in a
12 reduction of greater than ten percent of the net worth of such
13 depository as shown on the most recent report it submitted pursuant
14 to RCW 39.58.100.

15 NEW SECTION. **Sec. 3.** RCW 39.58.240 (Credit union as public
16 depository—Conditions) and 2012 c 26 s 1 & 2010 c 36 s 1 are each
17 repealed.

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