

PROPOSED SUBSTITUTE HOUSE BILL 1669
H-2058.1 by Representative Kirby

Original bill:

- Authorizes the Public Deposit Protection Commission to approve credit unions as public depositaries.
-

Substitute bill compared to original bill:

- Requires credit unions approved as public depositaries to at all times pledge and segregate eligible securities in an amount equal to 100 percent of all public funds on deposit in the public depository.
 - Defines the "maximum liability" in reference to a credit union public depository to mean on any given date a sum equal to 100 percent of all collateral posted to secure the public deposits
 - Adds an effective date of January 1, 2010.
-

Committee: House Financial Institutions & Insurance Committee

Staff: Alison Hellberg (786-7152)
Office of Program Research

1 AN ACT Relating to the deposit of public funds; amending RCW
2 39.58.010, 35.38.060, 35.58.510, 36.48.060, and 43.08.280; adding a new
3 section to chapter 39.58 RCW; and providing an effective date.

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

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

7 In this chapter, unless the context otherwise requires:

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

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

1 "bank" denotes a bank, trust company, or national banking association
2 and the word "thrift" denotes a savings association or savings bank;

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

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

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

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

19 (b) "Maximum liability," with reference to a credit union public
20 depository, on any given date means a sum equal to one hundred percent
21 of all collateral posted to secure the public deposits;

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

25 (8) "Investment deposits" means time deposits, money market deposit
26 accounts, and savings deposits of public funds available for
27 investment;

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

31 (10) "Financial institution" means ~~((any))~~ a national or
32 state-chartered commercial bank or trust company, savings bank, ~~((or))~~
33 savings association, or federal or state-chartered credit union, or
34 branch or branches thereof, located in this state and lawfully engaged
35 in business;

36 (11) "Commission report" means a formal accounting rendered by all
37 public depositories to the commission in response to a demand for
38 specific information made by the commission detailing pertinent affairs

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

4 (12) "Director of financial institutions" means the Washington
5 state director of the department of financial institutions;

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

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

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

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

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

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

34 All banks, trust companies, bankers, savings banks, and
35 institutions, building and loan associations, savings and loan
36 associations, credit unions, investment companies and other persons

1 carrying on a banking or investment business, all insurance companies,
2 insurance associations, and other persons carrying on an insurance
3 business, and all executors, administrators, curators, trustees and
4 other fiduciaries, may legally invest any sinking funds, moneys, or
5 other funds belonging to them or within their control in any bonds or
6 other obligations issued by a metropolitan municipal corporation
7 pursuant to this chapter. Such bonds and other obligations shall be
8 authorized security for all public deposits. It is the purpose of this
9 section to authorize any persons, political subdivisions and officers,
10 public or private, to use any funds owned or controlled by them for the
11 purchase of any such bonds or other obligations. Nothing contained in
12 this section with regard to legal investments shall be construed as
13 relieving any person of any duty of exercising reasonable care in
14 selecting securities.

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

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

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

26 (1) The state treasurer is authorized to negotiate a statewide
27 custody contract for custody services for local governments and
28 institutions of higher education. The term of the contract shall be
29 for a minimum of four years.

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

34 (3) Following such notification, each local government or
35 institution of higher education may, at its option, become a signatory
36 to the statewide contract. Each local government or institution of

1 higher education may only become a signatory to the contract by having
2 its authorized local government official or financial officer and the
3 statewide custodian execute the statewide contract. The contract is
4 between the statewide custodian and the respective local government or
5 institution of higher education. It is the responsibility of the local
6 government official or financial officer to fully understand the terms
7 and conditions of the statewide custody contract prior to its
8 execution, and to ensure those terms and conditions are observed by the
9 statewide custodian during the term of the contract.

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

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

18 (6) For the purposes of this section:

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

21 (b) "Local government" means any county, city, town, special
22 purpose district, political subdivision, municipal corporation, or
23 quasi-municipal corporation, including any public corporation created
24 by such an entity, which legally possesses and exercises investment
25 authority;

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

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

32 (e) "Custody services" means services performed by a financial
33 institution such as the settlement, safekeeping, valuation, and market-
34 value reporting of negotiable instruments owned by the local
35 government;

36 (f) "Local government official" means any officer or employee of a
37 local government who has been designated by statute or local charter,
38 ordinance, or resolution as the officer having the authority to invest

1 the funds of the local government. However, the county treasurer is
2 the only local government official for all political subdivisions for
3 which the county treasurer has statutory or contractual authority to
4 invest the funds thereof;

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

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 39.58 RCW
9 to read as follows:

10 A credit union approved as a public depository by the commission
11 shall at all times pledge and segregate eligible securities in an
12 amount equal to one hundred percent of all public funds on deposit in
13 the public depository.

14 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2010.

--- END ---