

REVENUE: No Revenue Impact
FISCAL: Minimal Fiscal Impact, no Statement Issued

Action: Do Pass
Vote: 4-0-0
Yeas: Hass, Morse, Telfer, Burdick
Nays: 0
Exc.: 0

Prepared By: Mazen Malik, Economist
Meeting Dates: 4/25

WHAT THE BILL DOES: Specifies that the current statutory limit on aggregate amount of public funds deposits that may be held by a bank depository applies only to uninsured public funds.

ISSUES DISCUSSED:

- Definitional issues - catch what we missed last time. Differences from the FDIC insured balances.
- Credit Union and banks issues from the 2010 session.
- Banking industry trying to adjust the definitions and make them workable. Letters into the record.
- The intent always was for the collaterals to be for noninsured balances and not total balances.

EFFECT OF COMMITTEE AMENDMENTS: No amendments

BACKGROUND:

A bank depository is an insured institution or trust that maintains either a head office or branch in Oregon in the capacity of an insured institution or trust company, and that complies with statutory conditions for acting as a custodian or bank depository (ORS 295.008). Current statute restricts a bank depository from permitting the aggregate of public funds deposits (funds under the control or in the custody of a public official by virtue of office) on deposit with the bank depository from all public officials to exceed at any time, with the amounts varying depending on whether the bank depository is classified as either an undercapitalized, adequately capitalized or well capitalized bank depository. Statute also limits the aggregate not to exceed 30 percent of the total aggregate uninsured public funds deposits of all public officials in all bank depositories as reported in the most recent notice received from the State Treasurer. Typically, "uninsured public funds" deposits are all Oregon public fund deposits that exceed the amount insured by the Federal Deposit Insurance Corporation (FDIC). This measure restricts the application of the current limits to only uninsured public funds.

295.008 Conditions for acting as custodian or bank depository. (1)(a) An insured institution or trust company may not be a custodian bank under ORS 295.001 to 295.108, unless it certifies in writing to the State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the Department of Consumer and Business Services.

(b) The State Treasurer may approve one or more insured institutions or trust companies to serve as custodians. The State Treasurer shall promptly notify all bank depositories of the approval of an insured institution or trust company to serve as a custodian.

(2) An insured institution or trust company may not be a bank depository under ORS 295.001 to 295.108, unless it:

(a) Certifies in writing to the State Treasurer that it will furnish, by the time specified by the Director of the Department of Consumer and Business

(A) The reports required under ORS 714.075 to the director; and

(B) Any other information the director considers necessary to determine whether to advise the State Treasurer to order a bank depository to increase its collateral under ORS 295.018.

(b) Except as provided in subsection (4) of this section, enters into a pledge agreement; and

(c) Complies with subsection (3) of this section.

(3) Any insured institution or trust company that wishes to become a bank depository shall file with the State Treasurer an initial written report signed or authenticated by an officer of the insured institution or trust company setting forth, as of the date the insured institution or trust company intends to commence acting as a bank depository:

(a) The estimated total amount of public funds that will be on deposit with the insured institution or trust company;

(b) The estimated net worth of the insured institution or trust company;

(c) The amount and nature of the collateral that will be deposited with its custodian to collateralize the public funds deposits; and

(d) The identity of its custodian.

(4) An insured institution or trust company may be a bank depository under ORS 295.001 to 295.108 without entering into a pledge agreement or complying with subsection (3) of this section if the insured institution or trust company does not hold any uninsured public funds deposits. The provisions of ORS 295.006, 295.013, 295.015, 295.018, 295.037 and 295.061 do not apply to an insured institution or trust company that is a bank depository under this subsection.

(5) An insured institution or trust company that merges with, acquires all the assets of, acquires ownership of or otherwise becomes a successor entity to a bank depository that has entered into a pledge agreement must execute a new pledge agreement or provide evidence satisfactory to the State Treasurer of the assumption by the successor insured institution or trust company of all of the duties and obligations of the bank depository under the existing pledge agreement. An insured institution or trust company that fails to enter into a pledge agreement or provide evidence of its assumption of the existing pledge agreement within the time specified by the State Treasurer shall be treated as a bank depository holding uninsured public funds that has failed to pledge adequate collateral under ORS 295.031. [2005 c.112 §3; 2007 c.871 §16; 2009 c.821 §4]