

HB 2390 A STAFF MEASURE SUMMARY

Carrier: Rep. Smith Warner

House Committee On Revenue**Action Date:** 06/03/19**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 5-0-2-0**Yeas:** 5 - Findley, Marsh, Nathanson, Reschke, Smith Warner**Exc:** 2 - Hernandez, Smith G**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Kaitlyn Harger, Economist**Meeting Dates:** 5/16, 6/3**WHAT THE MEASURE DOES:**

Adds to statute new definitions related to deposits of public funds. Allows public officials to deposit funds in non-qualified depositories if amounts deposited are insured by another body that meets rating requirements. Allows a certificate of deposit to be issued by a financial institution outside this state. Adds to statute additional ways a depository can qualify to hold public funds. Requires financial institutions holding public funds to provide evidence of collateral when securities are not used as collateral. Provides State Treasurer additional flexibility in determining who can be a custodian for securities pledged by a qualified depository. Provides State Treasurer ability to enter into third party agreements for the receipt, collection, transfer, disbursement, or payment of public funds.

ISSUES DISCUSSED:

- Findings of workgroup related to handling of state funds
- Common practices in other states
- Personal liability for lost funds

EFFECT OF AMENDMENT:

Replaces the bill.

BACKGROUND:

Under current law, public deposits are subject to the following requirements when partnering with a third party vendor: (1) the third party must segregate the public body's funds from all other funds, (2) the third party must hold the public body's funds in a segregated account on behalf of the public body, and (3) must deposit the public body's funds with a qualified public funds depository. Upon the passage of HB 2779 in 2017, the State Treasurer was tasked with reviewing these provisions of state law related to depositories of public funds and making recommendations for improved processes in the future. A work group consisting of state agencies, local governments, depositories, and Treasury representatives was formed in 2018 to analyze this issue.

The findings of the work group suggest that when considering partnerships or the use of third party vendors, the Treasury may encounter two potential issues, both of which conflict with current law. First, a third party vendor may not bank with a qualified public funds depository, in which case the Treasury cannot transact with the vendor. Second, those third party vendors that do bank with a qualified public funds depository, may not require the funds to be held separate from other funds within the financial institution, as required by current law. The workgroup identified four potential complements to current law which, if enacted, would help the State Treasury deal with these issues in the future. The workgroup recommends adding to statute four complimentary solutions as exceptions to existing public funds requirement, including exceptions for E-commerce, vendor collateralization, surety bonding, and letters of credit.