

MAR 2 2005
Place On Calendar

HOUSE FILE 537
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 188)

Passed House, Date 4-13-05 Passed Senate, Date 3-29-06
Vote: Ayes 99 Nays 0 Vote: Ayes 48 Nays 0
Approved April 6, 2006

A BILL FOR

1 An Act relating to the investment of public funds by the
2 treasurer of state, state agencies, and political subdivisions
3 including the investment of public funds not covered by
4 federal deposit insurance in certificates of deposit.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 537

1 Section 1. Section 12B.10, subsection 1, unnumbered
2 paragraph 2, Code 2005, is amended to read as follows:

3 The treasurer of state and the treasurer of each political
4 subdivision shall at all times keep funds coming into their
5 possession as public money in a vault or safe to be provided
6 for that purpose or in one or more depositories approved
7 pursuant to chapter 12C. However, the treasurer of state,
8 state agencies authorized to invest public funds, and ~~the~~
9 ~~treasurer-of-each~~ political ~~subdivision~~ subdivisions shall
10 invest, unless otherwise provided, any public funds not
11 currently needed in investments authorized by this section.

12 Sec. 2. Section 12B.10, subsection 4, Code 2005, is
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. h. Investments authorized under subsection
15 7.

16 Sec. 3. Section 12B.10, subsection 5, Code 2005, is
17 amended by adding the following new paragraph:

18 NEW PARAGRAPH. i. Investments authorized under subsection
19 7.

20 Sec. 4. Section 12B.10, Code 2005, is amended by adding
21 the following new subsections:

22 NEW SUBSECTION. 7. Notwithstanding sections 12C.2, 12C.4,
23 12C.6, 12C.6A, and any other provision of law relating to the
24 deposits of public funds, if public funds are deposited in a
25 depository, as defined in section 12C.1, any uninsured portion
26 of the public funds invested through the depository may be
27 invested in certificates of deposit arranged by the depository
28 that are issued by one or more federally insured banks or
29 savings associations regardless of location for the account of
30 the public funds depositor if all of the following
31 requirements are satisfied:

32 a. The full amount of the principal and any accrued
33 interest of each certificate of deposit issued shall be
34 covered by federal deposit insurance.

35 b. The depository, either directly or through an agent or

1 subcustodian, shall act as custodian of the certificates of
2 deposit.

3 c. The day the certificates of deposit are issued, the
4 depository shall have received deposits in an amount eligible
5 for federal deposit insurance from, and issued certificates of
6 deposit to, customers of other financial institutions wherever
7 located that are equal to or greater than the amount of public
8 funds invested under this subsection by the public funds
9 depositor through the depository.

10 NEW SUBSECTION. 8. As used in this section, "public
11 funds" means the same as defined in section 12C.1, subsection
12 2.

13 Sec. 5. Section 12C.22, subsection 2, unnumbered paragraph
14 1, Code 2005, is amended to read as follows:

15 The amount of the collateral required to be pledged by a
16 bank shall at all times equal or exceed the total of the
17 amount by which the public funds deposits in the bank exceeds
18 the total capital of the bank. For purposes of this section,
19 deposits that comply with section 12B.10, subsection 7, that
20 are evidenced either by one or more certificates of deposit,
21 or one or more orders for the next business day settlement and
22 issuance of certificates of deposit, by a federally insured
23 bank or savings association other than the depository, shall
24 not be deemed public fund deposits in the bank or savings
25 association. For purposes of this chapter, unless the context
26 otherwise requires, "total capital of the bank" means its tier
27 one capital plus both of the following components of tier two
28 capital:

29 Sec. 6. Section 12C.23A, subsection 3, paragraph d, Code
30 2005, is amended to read as follows:

31 d. If the loss of public funds is not covered by federal
32 deposit insurance and the proceeds of the closed bank's assets
33 that are liquidated within thirty days of the closing of the
34 bank are not sufficient to cover the loss, then any further
35 payments to cover the loss will come from the state sinking

1 fund for public deposits in banks. If the balance in that
2 sinking fund is inadequate to pay the entire loss, then the
3 treasurer shall obtain the additional amount needed by making
4 an assessment against other banks whose public funds deposits
5 exceed federal deposit insurance coverage. A bank's
6 assessment shall be determined by multiplying the total amount
7 of the remaining loss to all public depositors in the closed
8 bank by a percentage that represents the assessed bank's
9 proportional share of the total of uninsured public funds
10 deposits held by all banks and all branches of out-of-state
11 banks, based upon the average of the uninsured public funds of
12 the assessed bank or branch of an out-of-state bank as of the
13 end of the four calendar quarters prior to the date of closing
14 of the closed bank and the average of the uninsured public
15 funds in all banks and branches of out-of-state banks as of
16 the end of the four calendar quarters prior to the date of
17 closing of the closed bank, excluding the amount of uninsured
18 public funds held by the closed bank at the end of the four
19 calendar quarters. Each bank shall pay its assessment to the
20 treasurer of state within three business days after it
21 receives notice of assessment. For purposes of this section,
22 when calculating uninsured public funds, a bank shall include
23 all deposits of customers of other financial institutions as
24 permitted by section 12B.10, subsection 7.

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EXPLANATION

26 This bill relates to the investment of public funds by the
27 treasurer of state, state agencies, and public subdivisions by
28 permitting public funds that are deposited in a depository and
29 are not covered by federal deposit insurance to be invested in
30 certificates of deposit issued by one or more federally
31 insured banks or savings associations, whether or not located
32 in this state. The bill requires that the principal and
33 accrued interest of each such certificate of deposit be
34 covered by federal deposit insurance and that the depository
35 act as custodian of the certificates of deposit. The bill

1 also requires that on the day the certificates of deposit are
2 issued to the public funds depositor, the depository must
3 receive in deposits amounts eligible for federal deposit
4 insurance from, and must issue certificates of deposit to,
5 customers of other financial institutions, that are equal to
6 or greater than the amount of public funds initially deposited
7 by the public funds depositor at the depository.

8 The bill provides that certificates of deposit for public
9 funds issued by financial institutions other than the
10 depository, or one or more orders for the next business day
11 settlement and issuance of such certificates of deposit that
12 cover the uninsured portion of the public funds initially
13 deposited by the public funds depositor, shall not be
14 considered public funds deposits in the depository for
15 purposes of calculating the amount of collateral the
16 depository is required to pledge under Code section 12C.22.

17 The bill provides that when calculating uninsured public
18 funds to determine the amount of an assessment pursuant to
19 Code section 12C.23A, a bank shall include all deposits from
20 customers of other financial institutions as authorized under
21 Code section 12B.10, new subsection 7.

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HOUSE FILE 537

H-1095

- 1 Amend House File 537 as follows:
2 1. Page 1, by inserting before line 1, the
3 following:
4 "Section 1. NEW SECTION. 12B.6 CERTAIN PUBLIC
5 FUNDS OF POLITICAL SUBDIVISIONS.
6 All funds held by an association of elected county
7 officers which were received from a political
8 subdivision from the collection of taxes, fees, or
9 permits, which are being held by the association to
10 effectuate the purpose of the collection of the funds,
11 shall be deposited in a separate fund in the office of
12 the treasurer of state and are subject to audit by the
13 auditor of state at the request of the legislative
14 government oversight committee or the legislative
15 council."
16 2. Page 3, by inserting after line 24 the
17 following:
18 "Sec. ____ . EFFECTIVE DATE. The section of this
19 Act enacting section 12B.6, relating to funds received
20 by an association of county officers, being deemed of
21 immediate importance, takes effect upon enactment."
22 3. Title page, line 4, by inserting after the
23 word "deposit" the following: ", and providing an
24 effective date".
25 4. By renumbering as necessary.

By KURTENBACH of Story
HUSER of Polk
VAN ENGELENHOVEN of Marion

H-1095 FILED MARCH 16, 2005

HOUSE FILE 537

H-1186

- 1 Amend the amendment, H-1095, to House File 537 as
2 follows:
3 1. Page 1, by striking lines 6 through 15, and
4 inserting the following:
5 "All funds received, expended, or held by an
6 association of elected county officers before, on, or
7 after the effective date of this Act, to implement a
8 state-authorized program, are subject to audit by the
9 auditor of state at the request of the legislative
10 government oversight committee or the legislative
11 council. All such funds received or held on and after
12 July 1, 2005, shall be deposited in a fund in the
13 office of the treasurer of state."

By KURTENBACH of Story

H-1186 FILED MARCH 24, 2005

JANDS, CH
TOMENGA
KRESSIG

Succeeded By
SF 0537

HSB 188

COMMERCE, REGULATION & LABOR

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
COMMERCE, REGULATION AND LABOR
BILL BY CHAIRPERSON JENKINS)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

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2 treasurer of state, state agencies, and political subdivisions
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4 federal deposit insurance in certificates of deposit.

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2 paragraph 2, Code 2005, is amended to read as follows:

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6 for that purpose or in one or more depositories approved
7 pursuant to chapter 12C. However, the treasurer of state,
8 state agencies authorized to invest public funds, and the
9 treasurer-of-each political subdivision subdivisions shall
10 invest, unless otherwise provided, any public funds not
11 currently needed in investments authorized by this section.

12 Sec. 2. Section 12B.10, subsection 4, Code 2005, is
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. h. Investments authorized under subsection
15 7.

16 Sec. 3. Section 12B.10, subsection 5, Code 2005, is
17 amended by adding the following new paragraph:

18 NEW PARAGRAPH. i. Investments authorized under subsection
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20 Sec. 4. Section 12B.10, Code 2005, is amended by adding
21 the following new subsections:

22 NEW SUBSECTION. 7. Notwithstanding sections 12C.2, 12C.4,
23 12C.6, 12C.6A, and any other provision of law relating to the
24 deposits of public funds, if public funds are deposited in a
25 depository, as defined in section 12C.1, any uninsured portion
26 of the public funds invested through the depository may be
27 invested in certificates of deposit arranged by the depository
28 that are issued by one or more federally insured banks or
29 savings associations regardless of location for the account of
30 the public funds depositor if all of the following
31 requirements are satisfied:

32 a. The full amount of the principal and any accrued
33 interest of each certificate of deposit issued shall be
34 covered by federal deposit insurance.

35 b. The depository, either directly or through an agent or

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1 subcustodian, shall act as custodian of the certificates of
2 deposit.

3 c. The day the certificates of deposit are issued, the
4 depository shall have received deposits in an amount eligible
5 for federal deposit insurance from, and issued certificates of
6 deposit to, customers of other financial institutions wherever
7 located that are equal to or greater than the amount of public
8 funds invested under this subsection by the public funds
9 depositor through the depository.

10 NEW SUBSECTION. 8. As used in this section, "public
11 funds" means the same as defined in section 12C.1, subsection
12 2.

13 Sec. 5. Section 12C.22, subsection 2, unnumbered paragraph
14 1, Code 2005, is amended to read as follows:

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16 bank shall at all times equal or exceed the total of the
17 amount by which the public funds deposits in the bank exceeds
18 the total capital of the bank. For purposes of this section,
19 deposits that comply with section 12B.10, subsection 7, that
20 are evidenced either by one or more certificates of deposit,
21 or one or more orders for the next business day settlement and
22 issuance of certificates of deposit, by a federally insured
23 bank or savings association other than the depository, shall
24 not be deemed public fund deposits in the bank or savings
25 association. For purposes of this chapter, unless the context
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27 one capital plus both of the following components of tier two
28 capital:

29 Sec. 6. Section 12C.23A, subsection 3, paragraph d, Code
30 2005, is amended to read as follows:

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32 deposit insurance and the proceeds of the closed bank's assets
33 that are liquidated within thirty days of the closing of the
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35 payments to cover the loss will come from the state sinking

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4 an assessment against other banks whose public funds deposits
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6 assessment shall be determined by multiplying the total amount
7 of the remaining loss to all public depositors in the closed
8 bank by a percentage that represents the assessed bank's
9 proportional share of the total of uninsured public funds
10 deposits held by all banks and all branches of out-of-state
11 banks, based upon the average of the uninsured public funds of
12 the assessed bank or branch of an out-of-state bank as of the
13 end of the four calendar quarters prior to the date of closing
14 of the closed bank and the average of the uninsured public
15 funds in all banks and branches of out-of-state banks as of
16 the end of the four calendar quarters prior to the date of
17 closing of the closed bank, excluding the amount of uninsured
18 public funds held by the closed bank at the end of the four
19 calendar quarters. Each bank shall pay its assessment to the
20 treasurer of state within three business days after it
21 receives notice of assessment. For purposes of this section,
22 when calculating uninsured public funds, a bank shall include
23 all deposits of customers of other financial institutions as
24 permitted by section 12B.10, subsection 7.

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EXPLANATION

26 This bill relates to the investment of public funds by the
27 treasurer of state, state agencies, and public subdivisions by
28 permitting public funds that are deposited in a depository and
29 are not covered by federal deposit insurance to be invested in
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31 insured banks or savings associations, whether or not located
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35 act as custodian of the certificates of deposit. The bill

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1 also requires that on the day the certificates of deposit are
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9 funds issued by financial institutions other than the
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16 depository is required to pledge under Code section 12C.22.

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19 Code section 12C.23A, a bank shall include all deposits from
20 customers of other financial institutions as authorized under
21 Code section 12B.10, new subsection 7.

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HOUSE FILE 537

AN ACT

RELATING TO THE INVESTMENT OF PUBLIC FUNDS BY THE TREASURER OF STATE, STATE AGENCIES, AND POLITICAL SUBDIVISIONS INCLUDING THE INVESTMENT OF PUBLIC FUNDS NOT COVERED BY FEDERAL DEPOSIT INSURANCE IN CERTIFICATES OF DEPOSIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 12B.10, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The treasurer of state and the treasurer of each political subdivision shall at all times keep funds coming into their possession as public money in a vault or safe to be provided for that purpose or in one or more depositories approved pursuant to chapter 12C. However, the treasurer of state, state agencies authorized to invest public funds, and the ~~treasurer-of-each political subdivision subdivisions~~ shall invest, unless otherwise provided, any public funds not currently needed in investments authorized by this section.

Sec. 2. Section 12B.10, subsection 4, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Investments authorized under subsection 7.

Sec. 3. Section 12B.10, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Investments authorized under subsection 7.

Sec. 4. Section 12B.10, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Notwithstanding sections 12C.2, 12C.4, 12C.6, 12C.6A, and any other provision of law relating to the deposits of public funds, if public funds are deposited in a depository, as defined in section 12C.1, any uninsured portion of the public funds invested through the depository may be invested in certificates of deposit arranged by the depository that are issued by one or more federally insured banks or savings associations regardless of location for the account of the public funds depositor if all of the following requirements are satisfied:

a. The full amount of the principal and any accrued interest of each certificate of deposit issued shall be covered by federal deposit insurance.

b. The depository, either directly or through an agent or subcustodian, shall act as custodian of the certificates of deposit.

c. The day the certificates of deposit are issued, the depository shall have received deposits in an amount eligible for federal deposit insurance from, and issued certificates of deposit to, customers of other financial institutions wherever located that are equal to or greater than the amount of public funds invested under this subsection by the public funds depositor through the depository.

NEW SUBSECTION. 8. As used in this section, "public funds" means the same as defined in section 12C.1, subsection 2.

Sec. 5. Section 12C.22, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The amount of the collateral required to be pledged by a bank shall at all times equal or exceed the total of the amount by which the public funds deposits in the bank exceeds the total capital of the bank. For purposes of this section, deposits that comply with section 12B.10, subsection 7, that are evidenced either by one or more certificates of deposit, or one or more orders for the next business day settlement and

issuance of certificates of deposit, by a federally insured bank or savings association other than the depository, shall not be deemed public fund deposits in the bank or savings association. For purposes of this chapter, unless the context otherwise requires, "total capital of the bank" means its tier one capital plus both of the following components of tier two capital:

Sec. 6. Section 12C.23A, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. If the loss of public funds is not covered by federal deposit insurance and the proceeds of the closed bank's assets that are liquidated within thirty days of the closing of the bank are not sufficient to cover the loss, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks whose public funds deposits exceed federal deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors in the closed bank by a percentage that represents the assessed bank's proportional share of the total of uninsured public funds deposits held by all banks and all branches of out-of-state banks, based upon the average of the uninsured public funds of the assessed bank or branch of an out-of-state bank as of the end of the four calendar quarters prior to the date of closing of the closed bank and the average of the uninsured public funds in all banks and branches of out-of-state banks as of the end of the four calendar quarters prior to the date of closing of the closed bank, excluding the amount of uninsured public funds held by the closed bank at the end of the four calendar quarters. Each bank shall pay its assessment to the treasurer of state within three business days after it receives notice of assessment. For purposes of this section,

when calculating uninsured public funds, a bank shall include all deposits of customers of other financial institutions as permitted by section 12B.10, subsection 7.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 537, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor