

Senate Study Bill 1149

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY CO=CHAIRPERSONS
BEHN and WARNSTADT)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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:
6 TLSB 1917SC 81
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1 1 Section 1. Section 12B.10, subsection 1, unnumbered
1 2 paragraph 2, Code 2005, is amended to read as follows:
1 3 The treasurer of state and the treasurer of each political
1 4 subdivision shall at all times keep funds coming into their
1 5 possession as public money in a vault or safe to be provided
1 6 for that purpose or in one or more depositories approved
1 7 pursuant to chapter 12C. However, the treasurer of state,
1 8 ~~state agencies authorized to invest public funds, and the~~
1 9 ~~treasurer of each political subdivision subdivisions~~ shall
1 10 invest, unless otherwise provided, any public funds not
1 11 currently needed in investments authorized by this section.
1 12 Sec. 2. Section 12B.10, subsection 4, Code 2005, is
1 13 amended by adding the following new paragraph:
1 14 NEW PARAGRAPH. h. Investments authorized under subsection
1 15 7.
1 16 Sec. 3. Section 12B.10, subsection 5, Code 2005, is
1 17 amended by adding the following new paragraph:
1 18 NEW PARAGRAPH. i. Investments authorized under subsection
1 19 7.
1 20 Sec. 4. Section 12B.10, Code 2005, is amended by adding
1 21 the following new subsections:
1 22 NEW SUBSECTION. 7. Notwithstanding sections 12C.2, 12C.4,
1 23 12C.6, 12C.6A, and any other provision of law relating to the
1 24 deposits of public funds, if public funds are deposited in a
1 25 depository, as defined in section 12C.1, any uninsured portion
1 26 of the public funds invested through the depository may be
1 27 invested in certificates of deposit arranged by the depository
1 28 that are issued by one or more federally insured banks or
1 29 savings associations regardless of location for the account of
1 30 the public funds depository if all of the following
1 31 requirements are satisfied:
1 32 a. The full amount of the principal and any accrued
1 33 interest of each certificate of deposit issued shall be
1 34 covered by federal deposit insurance.
1 35 b. The depository, either directly or through an agent or
2 1 subcustodian, shall act as custodian of the certificates of
2 2 deposit.
2 3 c. The day the certificates of deposit are issued, the
2 4 depository shall have received deposits in an amount eligible
2 5 for federal deposit insurance from, and issued certificates of
2 6 deposit to, customers of other financial institutions wherever
2 7 located that are equal to or greater than the amount of public
2 8 funds invested under this subsection by the public funds
2 9 depository through the depository.
2 10 NEW SUBSECTION. 8. As used in this section, "public
2 11 funds" means the same as defined in section 12C.1, subsection
2 12 2.
2 13 Sec. 5. Section 12C.22, subsection 2, unnumbered paragraph
2 14 1, Code 2005, is amended to read as follows:

2 15 The amount of the collateral required to be pledged by a
2 16 bank shall at all times equal or exceed the total of the
2 17 amount by which the public funds deposits in the bank exceeds
2 18 the total capital of the bank. For purposes of this section,
2 19 deposits that comply with section 12B.10, subsection 7, that
2 20 are evidenced either by one or more certificates of deposit,
2 21 or one or more orders for the next business day settlement and
2 22 issuance of certificates of deposit, by a federally insured
2 23 bank or savings association other than the depository, shall
2 24 not be deemed public fund deposits in the bank or savings
2 25 association. For purposes of this chapter, unless the context
2 26 otherwise requires, "total capital of the bank" means its tier
2 27 one capital plus both of the following components of tier two
2 28 capital:

2 29 Sec. 6. Section 12C.23A, subsection 3, paragraph d, Code
2 30 2005, is amended to read as follows:

2 31 d. If the loss of public funds is not covered by federal
2 32 deposit insurance and the proceeds of the closed bank's assets
2 33 that are liquidated within thirty days of the closing of the
2 34 bank are not sufficient to cover the loss, then any further
2 35 payments to cover the loss will come from the state sinking
3 1 fund for public deposits in banks. If the balance in that
3 2 sinking fund is inadequate to pay the entire loss, then the
3 3 treasurer shall obtain the additional amount needed by making
3 4 an assessment against other banks whose public funds deposits
3 5 exceed federal deposit insurance coverage. A bank's
3 6 assessment shall be determined by multiplying the total amount
3 7 of the remaining loss to all public depositors in the closed
3 8 bank by a percentage that represents the assessed bank's
3 9 proportional share of the total of uninsured public funds
3 10 deposits held by all banks and all branches of out-of-state
3 11 banks, based upon the average of the uninsured public funds of
3 12 the assessed bank or branch of an out-of-state bank as of the
3 13 end of the four calendar quarters prior to the date of closing
3 14 of the closed bank and the average of the uninsured public
3 15 funds in all banks and branches of out-of-state banks as of
3 16 the end of the four calendar quarters prior to the date of
3 17 closing of the closed bank, excluding the amount of uninsured
3 18 public funds held by the closed bank at the end of the four
3 19 calendar quarters. Each bank shall pay its assessment to the
3 20 treasurer of state within three business days after it
3 21 receives notice of assessment. For purposes of this section,
3 22 when calculating uninsured public funds, a bank shall include
3 23 all deposits of customers of other financial institutions as
3 24 permitted by section 12B.10, subsection 7.

3 25 EXPLANATION

3 26 This bill relates to the investment of public funds by the
3 27 treasurer of state, state agencies, and public subdivisions by
3 28 permitting public funds that are deposited in a depository and
3 29 are not covered by federal deposit insurance to be invested in
3 30 certificates of deposit issued by one or more federally
3 31 insured banks or savings associations, whether or not located
3 32 in this state. The bill requires that the principal and
3 33 accrued interest of each such certificate of deposit be
3 34 covered by federal deposit insurance and that the depository
3 35 act as custodian of the certificates of deposit. The bill
4 1 also requires that on the day the certificates of deposit are
4 2 issued to the public funds depositor, the depository must
4 3 receive in deposits amounts eligible for federal deposit
4 4 insurance from, and must issue certificates of deposit to,
4 5 customers of other financial institutions, that are equal to
4 6 or greater than the amount of public funds initially deposited
4 7 by the public funds depositor at the depository.

4 8 The bill provides that certificates of deposit for public
4 9 funds issued by financial institutions other than the
4 10 depository, or one or more orders for the next business day
4 11 settlement and issuance of such certificates of deposit that
4 12 cover the uninsured portion of the public funds initially
4 13 deposited by the public funds depositor, shall not be
4 14 considered public funds deposits in the depository for
4 15 purposes of calculating the amount of collateral the
4 16 depository is required to pledge under Code section 12C.22.

4 17 The bill provides that when calculating uninsured public
4 18 funds to determine the amount of an assessment pursuant to
4 19 Code section 12C.23A, a bank shall include all deposits from
4 20 customers of other financial institutions as authorized under
4 21 Code section 12B.10, new subsection 7.