

to complete the work, and is able to furnish a performance bond for one hundred percent of the contract.

2. SET-ASIDE. Notwithstanding section 314.1, there may be set aside for bidding by pre-qualified disadvantaged business enterprises a percentage of the total annual dollar amount of public contracts let by the department. The annual dollar amount set aside for bidding by pre-qualified disadvantaged business enterprises shall not exceed ten percent of the total dollar amount of federal aid highway construction contracts let by the department and federal aid transit dollars administered by the department. The director may estimate the set-aside amount at the beginning of each fiscal year and a suit shall not be brought by any party as a result of this estimate. Set-aside contracts will be awarded to the lowest responsible pre-qualified disadvantaged business enterprise. This section shall not be construed as limiting the commission's right to refuse any or all disadvantaged business enterprise bids.

Sec. 2. Section 314.14 created under this Act is repealed at such time as section 105(f) of the Surface Transportation Assistance Act of 1982, Pub. L. No. 97-424, 96 Stat. 2100, expires pursuant to its own terms or by an act of congress.

Approved May 8, 1984

CHAPTER 1230
INVESTMENT OF PUBLIC FUNDS
S.F. 2220

AN ACT relating to financial institutions by allowing savings and loan associations, savings banks and credit unions to accept public funds, providing for the investment of idle public funds, requiring a commitment to community reinvestment to receive state public funds, providing for the giving of notice on minimum interest rates for public funds, providing for the pledging of assets, providing for the dissolution of the state sinking fund, expanding the deposit limits for bank holding companies, and providing reciprocity for credit unions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 175.6, subsection 9, Code 1983, is amended to read as follows:

9. Subject to ~~any~~ an agreement with bondholders or noteholders, invest or deposit moneys of the authority in ~~any~~ a manner determined by the authority, notwithstanding ~~the provisions of chapters chapter~~ chapter 452, or 453 ~~or~~ 454.

Sec. 2. Section 220.5, subsection 9, Code 1983, is amended to read as follows:

9. Subject to ~~any~~ an agreement with bondholders or noteholders, invest or deposit moneys of the authority in ~~any~~ a manner determined by the authority, notwithstanding ~~the provisions of chapters chapter~~ chapter 452, or 453 ~~or~~ 454.

Sec. 3. Section 307B.7, subsection 11, Code Supplement 1983, is amended to read as follows:

11. Invest or deposit moneys of the authority, subject to ~~any an~~ agreement with bondholders or noteholders, in ~~any~~ a manner determined by the authority, notwithstanding the provisions of chapter 452, or 453 or 454.

Sec. 4. Section 452.10, Code 1983, is amended to read as follows:

452.10 CUSTODY OF PUBLIC FUNDS—INVESTMENT OR DEPOSIT. The treasurer of state and the treasurer of each political subdivision shall at all times keep all funds coming into their possession as public money, in a vault or safe, to be provided for that purpose, or in ~~some~~ bank legally designated as a depository for such funds ~~one or more~~ depositories. However, the treasurer of state and the treasurer of each political subdivision shall invest, unless otherwise provided, any of the public funds not currently needed for operating expenses in notes, certificates, bonds, ~~prime eligible bankers acceptances, commercial paper rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A, perfected repurchase agreements, or other evidences of indebtedness which are obligations of or guaranteed by the United States of America or any of its agencies; or make in time deposits of such funds in banks depositories as provided in chapter 453 and receive time certificates of deposit therefor; or in savings accounts in banks depositories. The total investment in commercial paper of any one corporation is limited to an amount not more than twenty percent of the total stockholders' equity of that corporation.~~ The treasurer of state may invest any of the funds in ~~his the~~ treasurer's custody in any of the investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b" except that investment in common stocks shall ~~is not be~~ permitted. As used in this section, "depository" means a financial institution designated as a legal depository under chapter 453.

Sec. 5. Section 453.1, Code Supplement 1983, is amended to read as follows:

453.1 DEPOSITS IN GENERAL. All funds held in the hands of the following officers or institutions shall be deposited in ~~banks one or more~~ depositories first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, sheriff, by the board of supervisors; for the city treasurer, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 303B, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision shall invest all funds not needed for current operating expenses in time certificates of deposit in ~~banks listed as approved depositories pursuant to this chapter or in investments permitted by section 452.10.~~ The list of public depositories and the amounts severally deposited in the depositories ~~shall be a matter are matters~~ of public record. "Bank" means a bank or a private bank, as defined in section 524.103. As used in this chapter, "depository" means a bank or any office thereof whose accounts are insured by the federal deposit insurance corporation, or a savings and loan association or any branch thereof or a savings bank or any branch thereof whose accounts are insured by the federal savings and loan insurance corporation, or a credit union insured by the national credit union administration.

Sec. 6. Section 453.2, Code 1983, is amended to read as follows:

453.2 APPROVAL—REQUIREMENTS. The approval of a bank financial institution as a depository shall be by written resolution or order which shall be entered of record in the minutes of the approving board, and which shall distinctly name each bank depository approved, and specify the maximum amount which may be kept on deposit in each such bank depository.

Sec. 7. Section 453.3, Code 1983, is amended to read as follows:

453.3 INCREASE CONDITIONALLY PROHIBITED. The maximum amount so permitted approved under section 453.2 to be deposited in a named bank depository shall not be increased except with the approval of the treasurer of state.

Sec. 8. Section 453.4, Code 1983, is amended to read as follows:

453.4 LOCATION OF DEPOSITORIES. Deposits by the treasurer of state shall be in banks depositories located in this state; by a county officer or county public hospital officer or merged area hospital officer, in banks depositories located in his the county or in an adjoining county within this state; by a memorial hospital treasurer, in a bank depository located within this state which shall be selected by such the memorial hospital treasurer and approved by the memorial hospital commission; by a city treasurer or other city financial officer, in banks or bank depositories offices located in the city county in which the city is located or in an adjoining county, but in the event if there is no bank or bank depository office in such the city county in which the city is located or in an adjoining county then in any other bank or bank depository office located in this state which shall be selected as such a depository by the city council; by a school treasurer or by a school secretary in a bank depository within this state which shall be selected by the board of directors or the trustees of such the school district; by a township clerk in a bank depository located within this state which shall be selected by such the township clerk and approved by the trustees of such the township. Provided, that However, deposits may be made in banks depositories outside of Iowa for the purpose of paying principal and interest on bonded indebtedness of any municipality when such the deposit is made not more than ten days before the date such the principal or interest becomes due. Further, the treasurer of state may maintain an account outside the state of Iowa for the purpose of providing custodial services for the state and state retirement fund accounts.

Sec. 9. Section 453.5, Code 1983, is amended to read as follows:

453.5 REFUSAL OF DEPOSITS—PROCEDURE. If the duly approved banks depositories will not accept the deposits under the conditions prescribed or authorized in this chapter, the funds may be deposited, on the same or better terms as were offered to the depositories, in any one or more approved bank or banks depositories conveniently located within the state.

If a governmental unit makes in writing to all qualified, approved depositories a bona fide proffer to deposit public funds either in a savings account, or in a time certificate of deposit, and the proffer is not then accepted, then and only then may the governmental unit invest the funds so declined, on the same or better terms as were offered to the depositories, in bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America or by any agency or instrumentality thereof. However, public funds that will not be deposited or invested for a term of at least fifteen days may be invested, without prior offer to an approved depository, in notes, certificates, bonds, or other direct obligations of the United States or any of its agencies.

In addition to the investments herein authorized, the The treasurer of state may invest in any of the investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b" except that investment in common stocks shall not be permitted. This section does not affect the investment of funds as provided in sections 453.9 and 453.10.

Sec. 10. Section 453.6, Code 1983, is amended to read as follows:

453.6 INTEREST RATE. Public deposits shall be deposited with reasonable promptness in a depository legally designated as depository for the funds. A committee composed of the superintendent of banking, the auditor of state or a designee, and the treasurer of state shall meet on or about the first of each month or at other times as the committee may prescribe and by majority action shall establish a minimum rate to be earned on state funds placed in time deposits. State funds invested in bank depository time certificates of deposit shall draw interest at not less than the rate established, effective on the date of investment. An interest rate established by the committee under this section shall be in effect commencing on the eighth calendar day following the day the rate is established and until a different rate is established and takes effect. The committee shall give advisory notice of an interest rate established under this section. This notice may be given by publication in one or more newspapers, by publication in the Iowa administrative bulletin, by ordinary mail to persons directly affected, by any other method determined by the committee, or by a combination of these. In all cases, the notice shall be published in the Iowa administrative bulletin. The notice shall contain the following words:

"The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens."

The notice shall also provide the name and address of a state official to whom inquiries can be sent. Actions of the committee under this section and section 453.6A are exempt from chapter 17A.

Public funds invested in bank depositories time certificates of deposit by a public body or officer other than the treasurer of state shall draw interest at rates to be determined by the public body or officer and the bank depository, which rates shall not be less than the minimum rate set under this section for state funds.

Sec. 11. NEW SECTION. 453.6A ELIGIBILITY FOR STATE PUBLIC FUNDS.

1. Public funds of the state shall not be deposited in a financial institution which does not demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services.

2. In addition to establishing a minimum interest rate for public funds pursuant to section 453.6, the committee composed of the superintendent of banking, the auditor of state or a designee and the treasurer of state shall develop a list of financial institutions eligible to accept state public funds. The committee shall require that a financial institution seeking to qualify for the list shall annually provide the committee a written statement that the financial institution has a commitment to community reinvestment consistent with the safe and sound operation of a financial institution. To qualify for the list a financial institution must demonstrate a continuing commitment to meet the credit needs of the local community in which it is chartered.

3. The committee shall develop procedures to ensure that the financial institution's statement is available and accessible for examination by citizens. The committee shall adopt procedures for both of the following:

a. To receive information relating to a financial institution's commitment to community reinvestment.

b. To receive challenges from any person to a financial institution's continued eligibility to receive state public funds.

4. At least once a year the committee shall review any challenges that have been filed pursuant to subsection 2. The committee may hold a public hearing to consider the challenge. In considering a challenge, the committee shall review documents filed with federal regulatory authorities pursuant to the Community Reinvestment Act, 12 U.S.C. 2901 et seq. and regulations adopted pursuant to the Act, as amended to January 1, 1984. In addition, consistent with the confidentiality of financial institution records the committee shall consider other factors including, but not limited to, the following:

a. Activities conducted to determine the credit needs of the community.

b. Marketing and special credit-related programs to make citizens in the community aware of the credit services offered.

c. Practices intended to discourage application for types of credit set forth in the Community Reinvestment Act statement.

d. Geographic distribution of credit extensions, credit applications and credit denials.

e. Evidence of prohibited discriminatory or other illegal credit practices.

f. Participation in local community development and redevelopment projects.

g. Origination or purchase of residential mortgage loans, housing rehabilitation loans, home improvement loans and business or farm loans within the community.

h. Ability to meet various community credit needs based on financial condition, size, legal impediments, and local economic conditions.

Sec. 12. Section 453.7, subsection 1, Code 1983, is amended to read as follows:

1. ~~No bank or trust company~~ A depository shall, not directly or indirectly, by any device whatsoever, pay any interest to any a public officer on any a demand deposit of public funds, and no a public officer shall not take or receive any interest whatsoever on demand deposits of public funds. This provision shall does not apply to interest on time certificates of deposit or savings accounts for public funds.

Sec. 13. Section 453.8, Code 1983, is amended to read as follows:

453.8 LIABILITY OF PUBLIC OFFICERS. No An officer who is referred to in section 453.1 shall be is not liable for loss of funds by reason of the insolvency of the depository bank institution when said the funds have been deposited or invested as herein provided in this chapter. Any deposit or investment in a lawful depository upon which interest is paid to a governmental unit under the provisions of this chapter shall be considered legal deposits for the purposes of chapter 454.

Sec. 14. Section 453.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The governing council or board who which by law are is authorized to direct the depositing of funds shall be authorized to may direct the treasurer or other designated financial officer to invest any fund not an active fund needed for current use and which is being accumulated as a sinking fund for a definite purpose, the interest on which is used for the same purpose, in savings accounts in banks, in the certificates or warrants provided by section 454.10, or make time deposits of such funds as provided in this chapter and receive time certificates of deposit therefor, or in bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof, or in local certificates or warrants issued by any municipality or school district within the county, or in municipal or school district bonds which constitute a general liability, and the treasurer or other officer when so directed shall so invest such fund in investments authorized in section 452.10.

Sec. 15. Section 453.10, Code 1983, is amended to read as follows:

453.10 INVESTMENT OF FUNDS CREATED BY ELECTION. The governing council or board, who by law have control of any fund created by direct vote of the people, may invest any portion thereof of the fund not currently needed, in ~~bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof, or make time deposits of such funds and receive time certificates of deposit therefor, or in savings accounts investments authorized in section 452.10.~~ The treasurer of state may invest in any of the investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b" except that investment in common stocks shall not be permitted. Interest or earnings on such funds shall be credited as provided in section 453.7, subsection 2.

Sec. 16. Section 453.12, Code 1983, is amended to read as follows:

453.12 SERVICE CHARGE BY BANK DEPOSITORY. A ~~bank~~ depository may make reasonable service charges with respect to the handling of any public funds, but ~~such~~ the service charges shall not be greater than ~~said bank~~ the depository customarily requires from other ~~patrons~~ depositors for similar services.

Sec. 17. NEW SECTION. 453.13 DEPOSIT NOT MEMBERSHIP. Notwithstanding chapter 534, the deposit of public funds in an association defined in section 533.1 or 534.2 does not constitute being a shareholder, stockholder, or owner of a corporation in violation of Article VIII of the Constitution of the State of Iowa or any other provision of law.

Sec. 18. Section 453.14, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The board of directors of a school corporation may invest any portion of the proceeds of bonds issued and not currently needed in ~~United States government bonds or make time deposits as provided in this chapter section 452.10.~~

Sec. 19. NEW SECTION. 453.15 COLLATERAL CONDITIONS. A local government shall not require a pledge of collateral for that portion of the local government's deposits in a depository institution that is covered by insurance of a federal agency or instrumentality including the federal deposit insurance corporation, the federal savings and loan insurance corporation, or the national credit union administration.

Sec. 20. NEW SECTION. 453.16 SECURITY FOR DEPOSIT OF PUBLIC FUNDS.

1. Before a deposit of public funds is made by a public officer with a depository institution in excess of the amount insured by federal deposit insurance or federal savings and loan insurance, and before the investment of public funds in investments authorized in section 452.10 which either are not obligations of or guaranteed by the United States government or any of its agencies, are in excess of the amount insured by federal deposit insurance or federal savings and loan insurance, or are investments by the treasurer of state specifically authorized by section 452.10 to be made as additional investments under section 97B.7, subsection 2, paragraph "b", the public officer shall obtain security for the deposit or investment by one or more of the following:

a. The depository institution may give to the public officer a corporate surety bond of a surety corporation approved by the treasury department of the United States and authorized to do business in this state, which bond shall be in an amount equal to the public funds on deposit at any time. The bond shall be conditioned that the deposit shall be paid promptly on the order of the public officer making the deposit and shall be approved by the officer making the deposit.

b. The depository institution may deposit, maintain, pledge and assign for the benefit of the

public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the depository institution. The securities shall consist of any of the following:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

(2) Public bonds or obligations of this state or a political subdivision of this state.

(3) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

2. If public funds are secured by both the assets of a depository institution and a bond of a surety company, the assets and bond shall be held as security for a rateable proportion of the deposit on the basis of the market value of the assets and of the total amount of the surety bonds.

Sec. 21. NEW SECTION. 453.17 DEPOSIT OF SECURITIES.

1. A depository institution which receives public funds shall pledge securities owned by it as required by this chapter in one of the following methods:

a. The securities shall be deposited with the county, city, or other public officers at the option of the officers.

b. The securities shall be deposited pursuant to a bailment agreement with a financial institution having facilities for the safekeeping of securities and doing business in the state. A financial institution which receives securities for safekeeping is liable to the public officer to whom the securities are pledged for any loss suffered by the public officer if the financial institution relinquishes custody of the securities contrary to the provisions of this chapter or the instrument governing the pledge of the securities.

c. The securities shall be deposited with the federal reserve bank of Chicago, Illinois or the federal home loan bank of Des Moines, Iowa pursuant to a bailment agreement.

d. The securities may be deposited by any combination of methods specified in paragraphs "a", "b", and "c".

2. A deposit of securities shall not be made in a facility owned or controlled directly or indirectly by the financial institution which deposits the securities.

3. All deposits of securities, other than deposits of securities with the appropriate public officer, shall have a joint custody receipt taken for the securities with one copy delivered to the public officer and one copy delivered to the depository institution. A depository institution pledging securities with a public officer may cause the securities to be examined in the officer's office to show the securities are placed with the officer as collateral security and are not transferable except upon the conditions provided in this chapter.

4. Upon written request from the appropriate public officer but not less than quarterly, a depository institution shall report the par value and the market value of any pledged collateral and the total deposits of public funds of that officer in the depository institution.

Sec. 22. NEW SECTION. 453.18 CONDITION OF SECURITY. The condition of the surety bond or the deposit of securities, instruments, or a joint custody receipt, must be that the depository institution will promptly pay to the parties entitled public funds, including any interest on the funds, in its custody upon lawful demand and, when required by law, pay the funds to the public officer who made the deposit.

Sec. 23. NEW SECTION. 453.19 WITHDRAWALS, EXCHANGES OF SECURITY.

1. Securities pledged pursuant to this chapter may be withdrawn on application of the pledging depository institution and upon approval of the public officer to whom the securities are pledged if the deposit of securities is no longer necessary to comply with this chapter, or is required for collection by virtue of its maturity or for exchange. The depository institution shall replace securities so withdrawn for collection or exchange.

2. In an exchange of deposited securities for new securities, the amount of security on deposit at any time shall not be decreased below that otherwise required by this chapter.

3. In the event of substitution or exchange of securities, the holder or custodian of the securities shall, on the same day, forward by certified mail, return receipt requested, to the public officer and the depository institution, a receipt specifically describing and identifying both the substituted securities and those released and returned to the depository institution.

4. The public officer which deposits public funds with a depository institution shall require, if the market value of the securities deposited with or for the benefit of the officer falls below one hundred ten percent of the deposit liability to the public officer, the deposit of additional security to bring the total market value of the security to one hundred ten percent of the amount of public funds held by the depository.

Sec. 24. NEW SECTION. 453.20 DEPOSITORY INSTITUTION LIABILITY; PROCEDURE UPON DEFAULT; SALE OF SECURITY.

1. The depository institution, and the security given for the public funds in its hands, are liable for payment if the depository institution fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order or certificate of deposit, or any funds entrusted to it by the public officer.

2. The deposit of securities by a depository institution pursuant to this chapter constitutes consent by the depository institution to the disposition of the securities in accordance with this section.

3. When a depository institution is closed by order of its primary regulatory agency, the public officer shall demand and receive from each custodian the securities pledged to secure deposits of public funds and, with the advice and counsel of the committee referred to in section 453.6, liquidate in an orderly manner the securities or part of the securities as determined advisable at public or private sale and distribute the proceeds as provided in this section.

4. The claim of a public officer for purposes of this section shall be the amount of the officer's deposits plus interest to the date the funds are distributed to the public officer at the rate the depository institution agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

5. The public officer shall remit to the depository institution any of its collateral or the proceeds of its collateral in excess of the amount so distributable to public officers.

6. If the net proceeds of the collateral are inadequate after all other available sources are applied, to meet the total claims of the public officials entitled to the proceeds, the public officers may make claims against the depository institution as general creditors.

Sec. 25. Section 524.1802, Code 1983, is amended to read as follows:

524.1802 LIMITATION. No

1. A bank holding company shall not directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of any a bank, or the power to control in any manner the election of a majority of the directors of any a bank, if upon such the acquisition the banks so owned or controlled by the bank holding company would have, in the aggregate, more than eight ten percent of the total time and demand deposits, both time and demand, of all banks in this state, as determined by the superintendent on the basis of the

most recent reports of the banks in the state to their supervisory authorities which are available at the time of the acquisition.

2. ~~No~~ A bank holding company shall not directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of ~~any~~ a savings and loan association or savings bank, or the power to control in any manner the election of a majority of the directors of ~~any~~ a savings and loan association or savings bank, if upon ~~such~~ the acquisition the associations so owned or controlled by the bank holding company would have, in the aggregate, more than ~~eight~~ ten percent of the total time and demand deposits, ~~both time and demand~~, of all associations and savings banks in this state, as determined by the superintendent on the basis of the most recent reports of the associations in the state to their supervisory authorities which are available at the time of the acquisition.

Sec. 26. Section 533.4, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 22. Receive public funds pursuant to chapter 453.

NEW SUBSECTION. 23. Engage in any activity authorized by the administrator which would be permitted if the credit union were federally chartered and which is consistent with state law.

Sec. 27. NEW SECTION. 533.39 RECIPROCITY. Subject to rules of the administrator, a credit union chartered in another state may do business in Iowa subject to the applicable provisions of this chapter if credit unions chartered in Iowa may do business in the state in which the out-of-state credit union is chartered.

Sec. 28. The treasurer of state shall close the sinking fund created by section 454.1 within one hundred twenty days after the closing of any receiverships relating to any bank failures prior to the effective date of this Act and shall pay all sums remaining in the sinking fund on that date to depository institutions in Iowa within ninety days after the sinking fund is closed in proportion to the amounts which were assessed against the depository institutions during 1983 for the benefit of the sinking fund pursuant to chapter 454.

Sec. 29. Chapter 454, Code 1983, and Code Supplement 1983, is repealed. However, if pledging to secure the deposit of public funds has not been properly completed by July 1, 1984, then chapter 454 is not repealed until July 1, 1985.

Approved May 8, 1984