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COMMITTEE REPORT

February 25, 2015

**S. 375**

Introduced by Senator Hayes

S. Printed 2/25/15--S.

Read the first time January 28, 2015.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 375) to amend Section 6‑5‑15, as amended, Code of Laws of South Carolina, 1976, relating to securing deposits of funds by local entities, so as to allow, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

The Municipal Association reports this bill will have no expenditure or revenue impact on municipalities. We did not receive a response from the thirteen counties contacted. The Department of Education reports that there would be no expenditure or revenue impact on school districts.

**Explanation of Fiscal Impact**

**Local Expenditure**

This bill amends Section 6-5-15 to allow local governments to invest surplus funds in an account with a qualified public depository that would then be deposited on behalf of the local government into separate accounts so that the entire account balance is insured by the Federal Deposit Insurance Corporation (FDIC). Deposits by local governments must be FDIC insured. Due to the $250,000 limit on insurance for deposits, any amount above the limit must be collateralized. This new option for investing would allow the local government entity to deposit funds in a single qualifying bank, and the bank would then deposit the funds into several FDIC insured, qualifying accounts on behalf of the local government. Local governments are not required to participate. The Revenue and Fiscal Affairs Office surveyed the Municipal Association of South Carolina and thirteen county governments. We received a response from the Municipal Association and no county responses. The Municipal Association reports this bill will have no expenditure impact on municipalities. The Department of Education reports that there would be no expenditure impact on school districts.

**Local Revenue**

The Revenue and Fiscal Affairs Office surveyed the Municipal Association of South Carolina and thirteen county governments. We received a response from the Municipal Association and no county responses. The Municipal Association reports this bill will have no revenue impact on municipalities. The Department of Education reports that there would be no revenue impact on school districts.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 6‑5‑15, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SECURING DEPOSITS OF FUNDS BY LOCAL ENTITIES, SO AS TO ALLOW A LOCAL ENTITY TO DEPOSIT ALL OR A PORTION OF SURPLUS PUBLIC FUNDS IN ITS CONTROL OR POSSESSION IN ACCORDANCE WITH CERTAIN CONDITIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 6‑5‑15 of the 1976 Code, as last amended by Act 231 of 2008, is further amended to read:

“Section 6‑5‑15. (A) As used in this section, ‘local entity’ means the governing body of a municipality, county, school district, other local government unit or political subdivision, or a county treasurer.

(B) A qualified public depository, as defined in subsection (G) of this section, upon the deposit of funds by a local entity, must secure these deposits by deposit insurance, surety bonds, investment securities, or letters of credit to protect the local entity against loss in the event of insolvency or liquidation of the institution or for any other cause.

(C) To the extent that these deposits exceed the amount of insurance coverage provided by the Federal Deposit Insurance Corporation, the qualified public depository at the time of deposit must:

(1) furnish an indemnity bond in a responsible surety company authorized to do business in this State; or

(2) pledge as collateral:

(a) obligations of the United States;

(b) obligations fully guaranteed both as to principal and interest by the United States;

(c) general obligations of this State or any political subdivision of this State; or

(d) obligations of the Federal National Mortgage Association, the Federal Home Loan Bank, Federal Farm Credit Bank, or the Federal Home Loan Mortgage Corporation; or

(3) provide an irrevocable letter of credit issued by the Federal National Mortgage Association, the Federal Home Loan Bank, Federal Farm Credit Bank, or the Federal Home Loan Mortgage Corporation, in which the local entity is named as beneficiary and the letter of credit otherwise meets the criteria established and prescribed by the local entity.

(D) The local entity must exercise prudence in accepting collateral securities or other forms of deposit security.

(E)(1) A qualified public depository has the following options:

(a) To secure all or a portion of uninsured funds under the Dedicated Method where all or a portion of the uninsured funds are secured separately. The qualified public depository shall maintain a record of all securities pledged, with the record being an official record of the qualified public depository and made available to examiners or representatives of all regulatory agencies. The local entity shall maintain a record of the securities pledged for monitoring purposes.

(b) To secure all or the remainder of uninsured funds under the Pooling Method where a pool of collateral is established by the qualified public depository under the direction of the State Treasurer for the benefit of local entities. The depository shall obtain written approval from each entity before pooling an entity’s collateral. The depository shall maintain a record of all securities pledged, with the record being an official record of the qualified public depository and made available to examiners or representatives of all regulatory agencies. The State Treasurer shall determine the requirements and operating procedures for this pool. The State Treasurer is responsible for monitoring and ensuring a depository’s compliance and providing monthly reports to each local entity in the pool.

(2) Notwithstanding the provisions of item (1) of this subsection, the local entity, when other federal or state law applies, may require a qualified public depository to secure all uninsured funds separately under the Dedicated Method.

(F) A qualified public depository shall not accept or retain any funds that are required to be secured unless it has deposited eligible collateral equal to its required collateral with some proper depository pursuant to this chapter.

(G) ‘Qualified public depository’ means ~~any~~a national banking association, state banking association, federal savings and loan association, or federal savings bank located in this State and ~~any~~a bank, trust company, or savings institution organized under the law of this State that receives or holds funds that are secured pursuant to this chapter.

(H) In addition to the investments authorized for local entities in Section 6‑5‑10 and notwithstanding another provision of law, a local entity may deposit all or a portion of surplus public funds in its control or possession in accordance with the following conditions:

(1) the funds are initially deposited in a qualified public depository selected by the local entity;

(2) the selected qualified public depository arranges for depositing the funds in one or more federally insured banks or savings and loan associations, wherever located, for the account of the local entity;

(3) the full amount of the principal and accrued interest of each deposit is insured by the Federal Deposit Insurance Corporation; and

(4) the selected qualified public depository acts as custodian for the local entity with respect to each deposit.”

SECTION 2. This act takes effect upon approval by the Governor.

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