

Date of Hearing: June 21, 2010

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Mike Eng, Chair

SB 1344 (Kehoe) – As Amended: April 5, 2010

SENATE VOTE: 34-0

SUBJECT: Local agency investments

SUMMARY: Deletes the sunset date on current law provisions that allow local agencies to invest up to 30% of surplus funds in certificates of deposit (CD) with a commercial bank, savings bank, or credit union. Additionally, provides that only a local agency with existing legal authority to make investments may invest surplus funds in CDs.

EXISTING LAW

- 1) Allows a local agency, at its discretion, to invest a portion of its surplus funds in CDs, sit at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of CDs with the following conditions:
  - a) The local agency shall choose a nationally or state chartered commercial bank, savings bank, savings and loan association, or credit union in this state to invest the funds, which shall be known as the "selected" depository institution;
  - b) The selected depository institution may submit the funds to a private sector entity that assists in the placement of CDs with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States, for the local agency's account;
  - c) The full amount of the principal and the interest that may be accrued during the maximum term of each CD shall at all times be insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration;
  - d) The selected depository institution shall serve as a custodian for each CD that is issued with the placement service for the local agency's account;
  - e) At the same time the local agency's funds are deposited and the CDs are issued, the selected depository institution shall receive an amount of deposits from other commercial banks, savings banks, savings and loan associations, or credit unions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution for investment;
  - f) A local agency may not invest surplus funds with a selected depository institution for placement as CDs pursuant to this section on or after January 1, 2012. A local agency's surplus funds, invested pursuant to this section before January 1, 2012, may remain invested in CDs issued through a private sector entity for the full term of each CD;

- g) Notwithstanding subdivisions (a) to (f), inclusive, no credit union may act as a selected depository institution under this section or Section 53635.8 unless both of the following conditions are satisfied;
- h) The credit union offers federal depository insurance through the National Credit Union Administration; and,
- i) The credit union is in possession of written guidance or other written communication from the National Credit Union Administration authorizing participation of federally-insured credit unions in one or more CD placement services and affirming that the moneys held by those credit unions while participating in a deposit placement service will at all times be insured by the federal government. [Government Code, Section 53601].

FISCAL EFFECT: None

COMMENTS:

SB 1344 deletes the January 1, 2012, sunset date on the statutes authorizing local agencies to invest surplus funds in CDs at financial institutions that use private sector entities to assist in the placement of CDs. Additionally, the bill provides that only an agency which has authority under another provision of law to invest funds may invest surplus funds in CDs at financial institutions.

The authorization for local agencies to invest surplus funds in CDs was put into place by AB 2011 (Vargas), Chapter 459, Statutes of 2006. Existing law requires local agency funds to either protected by federal deposit insurance or secured by collateral. Prior to the bill, if a local agency wanted to make a deposit of over \$100,000, the bank had to pledge collateral to secure the deposit. This collateralization requirement was a barrier to most small community banks accepting deposits of local agency funds, which were generally in amounts much greater than \$100,000.

AB 2011 allowed local agencies to use a "deposit placement service" which takes a bank customer's large deposit and breaks it into amounts of less than \$100,000. These amounts are then placed in CDs at other banks within its network, ensuring FDIC protection on the customer's full deposit. The other banks then simultaneously send an equal amount of funds back to the original bank, enabling it to have the full amount of the original deposit available for lending or other purposes.

When AB 2011 became law, only one national network, the Certificate of Deposit Account Registry Service (CDARS) established Promontory Interfinancial Network, LLC, offered a qualifying CD placement service. CDARS is still the only such CD placement network that exists. Since 2006, 55 community banks in California have received investments of over \$2.2 billion of local agency deposits from counties, cities, special districts, and other agencies through the CDARS network.

REGISTERED SUPPORT / OPPOSITION:

Support

California Independent Bankers (Sponsor)  
California Bankers Association  
California Credit Union League  
California Municipal Treasurers Association (SMTA)  
California Special Districts Association (CSDA)  
City of Santa Rosa

Opposition

None on file.

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