

Date of Hearing: April 8, 2013

ASSEMBLY COMMITTEE ON BANKING AND FINANCE
Roger Dickinson, Chair
AB 279 (Dickinson) – As Amended: March 21, 2013

SUBJECT: Financial affairs.

SUMMARY: Expands a local agency's ability to invest surplus funds in deposits rather than solely certificate of deposits (CDs).

EXISTING LAW

- 1) Allows a local agency to invest a portion of its surplus funds in CDs 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, provided that the purchases of CDs, in total, do not exceed 30% of the agency's funds. [Government Code, Section 53601.8 & 53635.8, all further references are to the Government Code]
- 2) Provides that the following conditions apply for a local agency to invest its surplus funds in CDs:
 - a) The local agency shall choose a nationally or state chartered commercial bank, savings bank, savings and loan association, or credit union in California 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 (NCUA);
 - 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; and,
 - f) Notwithstanding subdivisions (a) to (e), inclusive, no credit union may act as a selected depository institution unless both of the following conditions are satisfied:
 - i) The credit union offers federal depository insurance through the NCUA; and,

- ii) The credit union is in possession of written guidance or other written communication from the NCUA authorizing participation of federally-insured credit unions in one or more certificate of deposit 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.

FISCAL EFFECT: None

COMMENTS:

Existing law allows local agencies to invest up to 30% of their surplus funds in CDs at depository institutions that use a private sector placement service to insure any funds above the FDIC limit of \$250,000. This allows a local agency to deposit funds into a CD at depository institutions and have it fully protected even if the deposit is over \$250,000. The bank takes the deposit and use the placement service that divides the money into amounts less than \$250,000. These smaller deposits are in turn parceled out to other banks where they are 100% insured by the FDIC. Other banks using the placement service, deposit an equal amount of funds in the original bank, therefore making the full amount of the local government's deposit available for lending in the community.

AB 279 expands current law so that the use of the placement service is not limited to CDs but could also be used for other types of deposits such as demand deposits. In more than 30 other states, local agencies can use this service for both deposits and CDs.

So far, current law has helped commercial banks, savings banks, saving and loan associations and credit unions attract \$4.3 billion in deposits from local agencies. This money is reinvested locally via loans to households and small businesses. Since current law only applies to CDs, depository institutions may be limited in their ability to attract a substantial portion of public funds that are placed in transaction and money market deposit accounts.

Additionally, AB 279 is essential because Congress did not extend the Transaction Account Guarantee Program (TAGP) which was started during the financial crisis to provide unlimited insurance for non-interest bearing bank accounts used by small companies and municipalities. Now that TAGP has expired, the author and supporters are concerned because local agencies are once again subject to the FDIC \$250,000 insurance limit. Current law requires local agency funds to either be protected by FDIC or secured by collateral, once again creating a barrier to most small community banks accepting funds exceeding \$250,000.

PREVIOUS LEGISLATION:

SB 1344 (Kehoe, Chapter 112 Statutes of 2010) Deleted the sunset date on current law provisions that allow local agencies to invest up to 30% of surplus funds in CDs 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.

AB 2011(Vargas, Chapter 459, Statutes of 2006) Allowed a local agency to invest specified funds into multiple CDs under certain circumstances.

REGISTERED SUPPORT / OPPOSITION:

Support

California Independent Bankers (Sponsor)
California Bankers Association (Co-Sponsor)
California Credit Union League
Community Business Bank
Five Star Bank
Malaga Bank
The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO
Vibra Bank

Opposition

None on file.

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