



Ohio Legislative Service Commission

123rd House Bill Analysis

Sub. H.B. 510

123rd General Assembly

(As Reported by S. Finance & Financial Institutions)

Reps. Evans, Householder, Verich, Schuler, Salerno, Barnes, Myers, Carey, Tiberi, Buchy, Jolivette, Hartnett, Stevens, Flannery, Olman, Hollister, Austria, Peterson, Redfern

Sens. White, Kearns

BILL SUMMARY

- Modifies the qualifications of members, meeting and voting requirements, and duties of the Savings and Loan Associations and Savings Banks Board.
- Increases the size of the Credit Union Council, and modifies the qualifications, duties, and responsibilities of its members.
- Modifies the Banking Law relative to the authorized name or designation of entities carrying on banking or trust activities.

CONTENT AND OPERATION

The bill reorganizes and modifies the law relative to the Savings and Loan Associations and Savings Banks Board and modifies the law relating to the Credit Union Council. Generally, these modifications include the qualifications of members, meeting and voting requirements, and duties of the Board and the Council.

The bill also makes modifications in the Banking Law relative to the authorized name or designation of entities carrying on banking or trust activities.

THE SAVINGS AND LOAN ASSOCIATIONS AND SAVINGS BANKS BOARD

Member qualifications

(sec. 1181.16(C) to (E); Section 3)

The Savings and Loan Associations and Savings Banks Board consists of seven members: the Deputy Superintendent for Savings and Loan Associations and Savings Banks and six members appointed by the Governor with the advice and consent of the Senate. The following chart compares the qualifications of the appointed members under current law with those proposed by the bill.

<i>CURRENT LAW</i>	<i>THE BILL</i>
Of the six appointed members:	Of the six appointed members:
Two must have experience at a savings and loan association organized and transacting business under the laws of Ohio.	Two must have experience at a savings and loan association organized and transacting business under authority granted by the Superintendent of Financial Institutions.
Two must have experience at a savings bank organized and transacting business under the laws of Ohio.	Two must have experience at a savings bank organized and transacting business under authority granted by the Superintendent of Financial Institutions.

Two must represent the public and cannot be engaged or engage in the management or direction of a financial institution or have any financial interest in a financial institution.

No provision.

No provision.

No provision.

Prohibits a person who has been convicted of or pleaded guilty to a felony involving dishonesty or breach of trust from becoming a member of the Savings and Loan Associations and Savings Banks Board.

Provides that a member of the Savings and Loan Associations and Savings Banks Board may serve two full consecutive terms following the remainder of a term in which the member was appointed to fill a vacancy.

In addition, the bill provides that the existing Savings and Loan Associations and Savings Banks Board is to be reorganized in accordance with the bill within 60 days after the bill's effective date.

Meetings and voting

(sec. 1181.16(H)(1) and (4))

Currently, the Savings and Loan Associations and Savings Banks Board must meet regularly at the discretion of the Board. In addition, the Board may adopt or amend bylaws and rules at a meeting by a majority vote.

The bill requires the Board to meet regularly at the Board's discretion but at least once **every six months**. Also, the bill provides that the Board may adopt or amend bylaws and rules by a majority vote **of those present at a meeting in which there is a quorum**.

Duties of the Board

(secs. 1155.13, 1163.16, 1181.16(I), and 1181.17)

Current law

Currently, the Savings and Loan Associations and Savings Banks Board is permitted (1) to consider and make recommendations upon matters addressed in the Savings and Loan Associations or the Savings Banks laws that the Superintendent of Financial Institutions or Deputy Superintendent for Savings and Loan Associations and Savings Banks submits to it for that purpose, (2) to pass upon and determine any matter that the Superintendent or Deputy Superintendent submits to it for determination, and (3) to submit to the Governor proposed amendments to the laws governing savings and loan associations and savings banks.

The bill

The bill *requires* the Board to perform the duties specified in current law. In addition, the Board must (1) make recommendations to the Superintendent and Deputy Superintendent on matters relating to the business of savings and loan associations and savings banks, and (2) consider and determine whether to confirm the annual schedule of assessments proposed by the Superintendent of Financial Institutions pursuant to the Savings and Loan Associations and Savings Banks laws. Correspondingly, the bill modifies those laws to require the Superintendent to submit to the Savings and Loan Associations and Savings Banks Board for confirmation an annual schedule of assessments to be billed savings and loan associations and savings banks by the state.

THE CREDIT UNION COUNCIL

Membership of the Council

(sec. 1733.329)

Number of members; chairperson

The Credit Union Council currently consists of the Deputy Superintendent for Credit Unions and five members appointed by the Governor with the advice and consent of the Senate. The bill specifies that the Council is created "in the Division of Financial Institutions" of the Department of Commerce, and increases the number of appointed members from five to

six. It also designates the Deputy Superintendent as chairperson of the Council. (Under current law, the Council must annually choose a chairperson from its membership.)

Member qualifications

The following chart compares the qualifications of appointed members under current law with those proposed by the bill.

<i>CURRENT LAW</i>	<i>THE BILL</i>
Of the five appointed members:	Of the six appointed members:
<p>Three must have at least five years of experience, and be currently serving, as a director, chief executive officer (CEO), or committee member of a credit union having its principal office in Ohio and doing business under the Ohio Credit Unions Law. Of these three members:</p> <p>(1) At least one must be a director, CEO, or committee member of a state-chartered, federally insured credit union;</p> <p>(2) At least one must be a director, CEO, or committee member of a state-chartered, privately insured credit union;</p> <p>(3) At least one must be a director, CEO, or committee member of a credit union with less than \$2 million in assets.</p>	<p>--At least five must have had credit union experience.</p> <p>--At least four must be serving, at the time of appointment, as a director or CEO of a state-chartered credit union having its principal office in Ohio and doing business under the Ohio Credit Unions Law.</p> <p>--At least one must be a director or CEO of a state-chartered, federally insured credit union.</p> <p>--At least one must be a director or CEO of a state-chartered, privately insured credit union.</p> <p>--At least one must be a director or CEO of a state-chartered credit union with \$5 million or less in assets.</p> <p>--At least one must be a director or CEO of a state-chartered credit union with more than \$5 million in assets.</p>
Two must represent the public and cannot be engaged in the management or direction of, or have a financial interest in, a financial institution.	No provision.
Not more than three can be from the same political party.	No provision.
	<u>Terms of office; oath</u>

Current terms of office are for five years. Under the bill, terms of office are for three years. Initial appointments to the Council must be made within 60 days after the bill's effective date. The bill provides that of the initial appointments, two expire one year after the bill's effective date, two expire two years after the bill's effective date, and two expire three years after the bill's effective date. The bill prohibits any appointed member from serving more than two consecutive full terms, as does current law. However, under the bill, a member may serve two consecutive full terms following (1) the remainder of a term for which the member was appointed to fill a vacancy or (2) any term for which the member was appointed prior to the bill's effective date.

Prior to entering upon the duties of membership, each appointed member is currently required to subscribe to and file with the Secretary of State, the constitutional oath of office. The bill removes this statutory requirement. It does not affect, however, the requirement for taking the constitutional oath of office as provided by the Ohio Constitution (Sec. 7, Art. XV).

Meetings; votes; conflicts of interest

Current law. Under current law, the Council is required to meet at least quarterly. The members must be given written notice of the time and location of each meeting at least ten days prior to the scheduled meeting date. A majority of the members of the Council constitutes a quorum to transact and vote on all business; however, the Deputy Superintendent may not vote on field of membership matters on appeal before the Council (see chart below).

The bill. The bill requires the Council to meet at least once *every six months*. Written notice of the time and location of each meeting must be provided at least *two* days prior to the scheduled meeting date, unless the Council by resolution provides for a shorter time. Four members of the Council constitute a quorum to transact and vote on all business coming before the Council.

The Council, by a majority vote of those present at a meeting at which there is a quorum, may adopt and amend bylaws and rules the Council considers necessary and proper. The Council is required to select one of its members as secretary to record all of its proceedings.

Lastly, the bill prohibits a member from participating in a proceeding before the Council involving any credit union of which the member is, or was at any time in the preceding 12 months, a member of the board of directors, an officer, an employee, or a shareholder. A member may refrain from participating for any other cause the member considers sufficient.

Compensation

Current Council members are compensated for any actual and necessary expenses incurred in the discharge of Council duties. The bill states that members are not to receive a salary, but expenses incurred in performance of their duties are to be paid from funds appropriated for that purpose.

Removal

Under existing law, the Governor may remove a member, with the advice and consent of the Senate, if the member is inefficient, is derelict in the discharge of the member's duties, has used the office corruptly, or for other specified reasons. The bill allows the Governor to remove any of the six appointed members "whenever in the [G]overnor's judgment the public interest requires removal." The Governor is required by the bill to file a statement of the cause for removal with the Superintendent of Financial Institutions.

Duties of the Council

(secs. 1733.32(E) and 1733.3210; Section 4)

Existing law authorizes the Credit Union Council to undertake certain duties, and mandates that it undertake others. As shown in the following chart, the bill modifies those duties, adds additional ones, and makes the performance of each duty mandatory.

<i>CURRENT LAW</i>	<i>THE BILL</i>
The Council <i>may</i> do the following:	The Council <i>must</i> do the following:
Advise the Superintendent of Financial Institutions and the Deputy Superintendent for Credit Unions on matters relating to the regulation, examination, safety and soundness, and applications of credit unions.	Same, but adds <i>field of membership</i> to the matters upon which advice is to be given.
Hear appeals from final decisions of the Superintendent or Deputy Superintendent regarding <i>fields of membership</i> , and issue determinations affirming, modifying, vacating, or reversing those decisions.	No provision.
Submit to the Governor recommendations concerning amendments to the Credit Unions Law, or rules adopted thereunder.	Same.
Advise the Superintendent or Deputy Superintendent concerning the development and proposal of rules affecting credit unions, and <i>conduct</i> the public hearings required for the adoption, amendment, or rescission of rules.	<i>Be present</i> at the public hearings required for the adoption, amendment, or rescission of rules, and provide recommendations at the hearings.
No provision.	Consider and make recommendations upon any matter addressed in the Credit Unions Law or the Credit Union Guaranty Corporations Law that the Superintendent or Deputy Superintendent submits to the Council for that purpose.
No provision.	Pass upon and determine any matter the Superintendent or Deputy Superintendent submits to the Council for determination.
No provision.	Consider and determine whether to confirm the supervisory fees proposed by the Superintendent (see

below).

As noted above, the bill requires the Superintendent to annually present to the Council for confirmation the supervisory fees to be billed credit unions and corporate credit unions. If during the period between the Council's confirmation and when the fees are collected, the Council determines additional money is required to adequately fund the operations of the Division of Financial Institutions for that fiscal year, the bill permits the Council, by the affirmative vote of five of its members, to increase the fees billed. The Superintendent promptly must notify each credit union and corporate credit union of the increased supervisory fees, and each credit union or corporate credit union must pay the increased fees.

Finally, the bill requires the current Council to conclude, within 60 days after the bill's effective date, any pending matters for which the Council was responsible under current law and for which the Council is not responsible under the bill.

Liability

(sec. 1733.3210(B))

The bill states that neither the Deputy Superintendent, nor any other member of the Credit Union Council, can be held liable, in any civil or criminal action or proceeding, for any mistake of judgment or discretion in any action taken, or in any omission made, in good faith by the Deputy Superintendent or other member.

AUTHORIZED NAMES AND DESIGNATIONS

UNDER THE BANKING LAW

Current law generally prohibits any person, other than a state or federally chartered bank, from using "bank," "banker," or "banking," or a word or words of similar meaning in any other language, as a designation or name, or as part of a designation or name, under which business is conducted in Ohio. The law provides several exceptions to this prohibition, including one for any nonprofit organization, *if* the Superintendent of Financial Institutions determines the organization's use is not likely to mislead the public and authorizes the organization to use the word or words. (Sec. 1101.15(A).)

Current law also generally prohibits any person, other than a corporation licensed as a trust company under the Trust Companies Law, a savings and loan association licensed to serve as a fiduciary, a national bank with trust powers, or a federal savings association with trust powers, to use the word "trust," or a word or words of similar meaning in any other language, as a designation or name, or part of a designation or name, under which business is conducted in the state. The law provides several exceptions to this prohibition, including one for any nonprofit organization, *if* the Superintendent determines the organization's use is not likely to mislead the public and authorizes the organization to use the word or words. (Sec. 1101.15(B).)

The bill eliminates these specific exceptions for nonprofit organizations and, instead, provides an exception for *any person, whether operating for profit or not*, to use the word "bank," "banker," or "banking," or the word "trust," as applicable, in or as part of a designation or name under which business is conducted, *if* the Superintendent determines the name, *on its face*, is not likely to mislead the public and authorizes the use of the name (sec. 1101.15 (A)(2)(d) and (B) (2)(f)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-29-99	p. 1375
Reported, H. Financial Institutions	03-29-00	p. 1740
Passed House (94-1)	04-05-00	pp. 1763-1764
Reported, S. Finance & Financial Institutions	05-18-00	p. 1759

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