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SUMMARY

Treasury and custodial funds

- Explicitly authorizes custodial funds held by the Treasurer of State (TOS) that are not part of the state treasury to be held with other qualified custodians designated by the TOS.
- Allows any business authorized to conduct trust business in Ohio to enter into an agreement with the TOS to carry out custodial duties, as opposed to solely allowing public depositories to enter into such agreements.
- Specifies that money held with other legal entities for the investment of certain pension funds are not public money or active deposits for the purposes of the laws governing the TOS and the Uniform Depository Act and are not considered to be in the custody of the TOS or subject to the State Board of Deposit.
- Clarifies that the TOS is the custodian of the State Teachers Retirement System Funds and those disbursements.
- Specifies that the TOS, employees of the TOS, and their bondspersons or sureties, when depositing or investing funds, are absolved of any liability for the loss of any public money deposited or invested by them when they have acted lawfully.

Uniform Depository Act

- Revises the definition of “prompt corrective action directive” to include, in the case of a nonfederally insured institution chartered in Ohio, a directive issued by the Superintendent of Financial Institutions.
- Authorizes state entities to contribute money to the Ohio Subdivision Fund for investment by the TOS.

Administration of fees

- Revises the administration of fees for the Housing Trust Fund, Family Violence Prevention Fund, Legal Aid Fund, Indigent Drivers Interlock and Alcohol Monitoring Fund, and the Statewide Treatment and Prevention Fund.

Miscellaneous

- Makes other miscellaneous changes to the law governing the TOS.

Local treasurers

- Authorizes the TOS to charge local treasurers an annual fee for education and training, however, the TOS cannot charge both an annual fee and the registration fee authorized under continuing law.
- Amends the initial and continuing education requirements for local treasurers.

Insurance premium tax

- Requires insurance companies to make annual franchise tax payments electronically.
- Transfers the responsibility of certifying unpaid insurance company premium taxes to the Attorney General for collection from the Superintendent of Insurance to the TOS.
- Only requires that interest be added to unpaid domestic insurance premiums tax deficiencies over \$1.
- Waives the requirement to issue domestic insurance premium tax bills and refunds for any amount \$1 or under.
- Authorizes the TOS to cancel unpaid or underpaid domestic insurance premiums tax if the debt, including interest, is less than \$50.

Sales tax

- Transfers responsibility for depositing a portion of sales tax vendor's license fees from the TOS to the Attorney General.

Related tax changes

- Removes obsolete references to the authority to adopt rules in the context of Local Government Fund distributions.
- Removes an outdated reference to the intangible property tax, which is no longer levied.

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DETAILED ANALYSIS

General overview

The Uniform Depository Act and laws governing the Treasurer of State (TOS), State Board of Deposit, and local treasurers outline how public money is required to be deposited and invested. The laws also establish procedures for designating eligible financial institutions as depositories for public funds, determine how those funds are deposited (active, inactive, or interim), and set guidelines for payments and investments. The bill makes various changes to these laws.

Treasury and custodial funds

Under continuing law, the TOS oversees both the state treasury and custodial funds. The state treasury consists of the money, claims, bonds, notes, other obligations, stocks, other securities, receipts, other evidences of ownership, and other intangible assets of the state that are required by law to be deposited in the state treasury or are otherwise a part of the state treasury. All assets of the state treasury are required to be kept in rooms assigned by the TOS, with vaults, safes, and other appliances. Custodial funds of the TOS consist of the same items and are required to be kept in the custody of the TOS but are not part of the state treasury. Assets of the state treasury must not be commingled with custodial funds.¹

Public moneys of the state treasury

Under continuing law, public money consists of active, inactive, and interim deposits. Active deposits are defined under continuing law as public deposits that are necessary to meet current demands on the treasury. Interim deposits are defined as public money that is not an active deposit and may be invested. Inactive deposits are defined as a public deposit other than an interim deposit or an active deposit.² Current law authorizes public money to be kept in state depositories. The bill instead requires only active deposits to be kept in depositories designated by the State Board of Deposit and secured for repayment and specifies that interim deposits must be invested in accordance with the law and held in safekeeping in the same manner as securities and other assets.³

Securities and assets of the state treasury

Under continuing law, securities that are part of the state treasury may be deposited for safekeeping with the Federal Reserve Bank of Cleveland or secured and insured depository institutions inside or outside of Ohio. The bill specifies that this provision applies to both securities and other assets, including invested interim funds. The bill also adds that the securities and other assets may be held with other qualified custodians as designated by the TOS.

¹ R.C. 113.05.

² R.C. 113.05(A)(2) and 135.01.

³ R.C. 113.05(B).

Under current law, “assets” are defined as resources owned, controlled, or otherwise used or held by the state which have monetary value, but do not include items held in safekeeping by the TOS, such as collateral pledged to a state agency. The bill eliminates that exclusion from the definition. Therefore, it seems under the bill that assets held by the TOS may include items held in safekeeping, such as collateral pledged to a state agency.⁴

Custodial funds

Safekeeping

Continuing law requires that custodial funds be held in rooms assigned by the TOS, with the vaults, safes, and other appliances, the Federal Reserve Bank of Cleveland, Ohio, or secured and insured depository institutions inside or outside of Ohio. The bill adds that custodial funds may also be held with other qualified custodians as designated by the TOS.

The bill specifies that when state law allows the administrator or owner of the custodial fund to invest in securities or other assets, those securities and other assets must be held in safekeeping, as described above.⁵

TOS duties

Under current law, changed in part by the bill, the TOS or the officer who performs the duties of the office of the TOS is the custodian of the funds required to be kept in the custody of the TOS. The custodial duties of the TOS under continuing law include all the following:

- Safekeeping of the custodial funds and investment assets of an owner;
- Collecting principal, dividends, distributions, and interest on custodial funds and investments of an owner;
- Paying for, transferring, and collecting the purchase or sale price of investments.

The bill changes the reference to custodial funds to active deposits and adds that the investments can be on behalf of the owner or an administrator.⁶

TOS agreement with a trustee

Under current law, the TOS may enter into a sub-custody or other agency agreement with a trustee to execute the custodial duties described above. Current law requires that the trustee to be a public depository. The bill instead requires the trustee to be any corporation that is authorized to conduct trust business in Ohio. Under continuing law, the agreement may provide that the trustee has primary responsibility for the custody of the funds and investments in order to execute an owner’s instructions. The bill specifies that the agreement may provide that the

⁴ R.C. 113.05(A) and (B).

⁵ R.C. 113.05(C)(1).

⁶ R.C. 113.051(A).

trustee has primary responsibility for custody of the investments (omitting “funds”) and any related depository accounts to execute an owner’s or administrator’s instructions.⁷

TOS and liability for losses

The bill specifies that the TOS, employees of the TOS, and their bondspersons or sureties, when depositing or investing funds, are absolved of any liability for the loss of any public money deposited or invested by them when they have acted lawfully. The bill adds that liability is not to be attached to the TOS or employees of the TOS where the proximate cause of any loss related to the investment in, sale, or liquidation of any investment when such loss is due to a risk arising from an investment prudently made under their investment authority. This absolution from liability applies to the deposit or investment of any public money, including all of the following:

- Active deposits;
- Interim deposits;
- The State Treasurer’s Investment Pool;
- Temporary investment pools of bond proceeds;
- Funds in the Ohio Subdivision’s Fund;
- Securities lending, as authorized under the Securities Lending Program;
- Investments related to any strategic reserve that the TOS or employees of the TOS are authorized to invest in by law.⁸

Pension funds and other funds

The bill specifies that money held in a depository account of a partnership, trust, limited liability company, corporation, or any other legal entity authorized to transact business in Ohio that has been established for the investment of funds pursuant to the laws governing the Public Employees Retirement System, Ohio Police and Fire Pension Fund, State Teachers Retirement System (STRS), School Employees Retirement System, Ohio Tuition Trust Fund, the investment of surplus or reserve of the State Insurance Fund, and the State Highway Patrol Retirement System are not public money or active deposits for the purposes of the law governing the TOS and the Uniform Depository Act and should not be considered to be in the custody of the TOS or subject to the State Board of Deposit.⁹ The TOS currently is the custodian of all of the retirement systems’ funds; the bill also clarifies that the TOS is the custodian of the State Teachers Retirement System Funds listed in the Revised Code and those disbursements, but money held in depository accounts by any entity established directly or indirectly to facilitate the investment of funds by the members of the State Teachers Retirement Board are not public moneys or public deposits

⁷ R.C. 113.051(B).

⁸ R.C. 113.052.

⁹ R.C. 113.05(C)(2); R.C. 145.11, 742.11, 3307.15, 3309.15, 3334.11, 4123.44, and 5505.06, not in the bill.

and are not considered to be in the custody of the TOS.¹⁰ The other retirement system laws contain similar provisions and are not changed by the bill; it is not clear what effect these changes have with respect to STRS or the other systems.¹¹

Audits

Under continuing law, a committee of the General Assembly, a House or Senate resolution, or a committee appointed by the General Assembly may require an audit of the state treasury and the custodial funds of the TOS. If the audit finds assets that should be in the state treasury or in the custodial funds, the auditors are required to make triplicate written certificates with their signatures on them and deliver the certificates to the TOS, the Auditor of State, and the Governor. The bill simply says that at the conclusion of an audit, regardless of what the audit finds, the auditor must report their findings to the offices named above.¹²

Continuing law establishes the Auditor of State Training Program Fund. Amounts in the fund are currently used to pay for both of the following:

- Expenses related to providing training for local government officials in accounting, budget, and financing;
- Training for new treasurers and continuing education programs.

The bill removes the authority for the fund to be used for new treasurer and continuing education programs.¹³

Uniform Depository Act

Directive

Under continuing law, a public depository or a credit union designated to hold public deposits must notify each governing board that made the designation if the institution becomes a party to an active prompt corrective action directive. The bill requires this notification to be in writing and provided within five business days. Under continuing law, a prompt corrective action directive is defined as a directive issued by a federal regulatory authority. The bill adds that, in the case of a nonfederally insured institution chartered in Ohio, the term also includes a directive issued by the Superintendent of Financial Institutions.¹⁴

Active deposits

Under the Uniform Depository Act, “active deposits” means a public deposit necessary to meet current demands on the treasury. The bill expands this definition to also include public

¹⁰ R.C. 3307.12.

¹¹ See R.C. 145.26, 742.61, 3309.12, and 5505.11, not in the bill.

¹² R.C. 113.16; R.C. 113.14, not in the bill.

¹³ R.C. 117.44.

¹⁴ R.C. 135.032(A) and (B).

deposits necessary to meet current demands on a fund that is in the custody of the TOS but not part of the state treasury.¹⁵

Investments by the TOS

Under continuing law, the TOS may invest in obligations issued by, or on behalf of, an Ohio political subdivision. Under current law, this obligation must mature within one year. The bill increases the maturity duration requirement to two years.¹⁶

Ohio Subdivision Fund

The Ohio Subdivision Fund allows a treasurer, governing board, or investing authority of a subdivision to pay its public money into the Ohio Subdivision Fund for the TOS to invest it. The TOS must invest the money in the fund in separately managed accounts and pooled accounts, in the same types of instruments, and subject to the same limitations provided for the deposit and investment of the state's interim money, except these funds cannot be invested in linked deposits. The bill authorizes a state entity to contribute money to the fund for investment. The bill defines "state entity" to mean the General Assembly, the Supreme Court, the Court of Claims, the office of an elected state officer, or a department, bureau, board, office, commission, agency, institution of higher education, retirement system, or other institution or instrumentality of this state established by the constitution or Ohio law.

The bill also requires that a treasurer, governing board, or investing authority of a subdivision or state entity designate two or more authorized signers associated with each account of the subdivision or state entity that is managed by the TOS in the TOS's investment pool. The authorized person must deposit redemptions made from a subdivision's or state entity's account only into the subdivision's treasury or state entity's custodial account at the public depository designated by the subdivision's governing board or the State Board of Deposit.¹⁷

Administration of fees

Housing Trust Fund fees

Current law, changed in part by the bill, requires county auditors to pay the TOS all housing trust fund fees collected by the county recorder within the first 30 days of each calendar quarter. The bill instead requires the county auditors to pay the fees to the Department of Development. Under continuing law, the Department of Development administers the Housing Trust Fund.¹⁸

¹⁵ R.C. 135.01(A).

¹⁶ R.C. 135.143(A)(13) and (G).

¹⁷ R.C. 113.07, 135.14, 135.143(A)(10), 135.22(E)(1), 135.35(A)(6), 135.451, 151.01(R)(4), 164.09(M), 183.51(S)(1)(d), 1557.03(N), 3737.945, 5528.54, and 6101.51.

¹⁸ R.C. 317.36 and 319.63.

Family Violence Prevention Fund

Under current law, the Director of Health, a person authorized by the Director, a local commissioner of health, or a local registrar of vital statistics must charge and collect an additional fee for each certified copy of a birth record, each certification of birth, and each copy of a death record and pay this fee to the TOS, and the TOS then is supposed deposit the money into the credit of the Family Violence Prevention Fund. Similarly, under current law, persons or government entities who fail to pay or forward various fees are required to pay a penalty to the Department of Public Safety. The Department is then required to forward these fees to the TOS for deposit into the Family Violence Prevention Fund. The bill instead requires the Department of Health and the Department of Public Safety to directly deposit amounts collected into the treasury to the credit of the Family Violence Prevention Fund.¹⁹

Legal Aid Fund

Continuing law requires that title insurance agents and companies establish and maintain interest-bearing trust accounts for nondirected escrow funds. Similarly, attorneys must maintain interest-bearing trust accounts. Current law requires that all interest earned on the account, net of service charges and other related charges be transmitted to the TOS for deposit in the Legal Aid Fund. The bill instead requires this money to be transmitted directly to the State Public Defender for deposit into the funds.²⁰

Indigent Drivers Interlock and Alcohol Monitoring Fund and the Statewide Treatment and Prevention Fund

Under current law certain fines paid for violations of operating a vehicle impaired for driving under the influence are paid directly to the Indigent Drivers Interlock and Alcohol Monitoring Fund or the Statewide Treatment and Prevention Fund. The bill requires that the money be transmitted first to the TOS for deposit into the funds.²¹

Miscellaneous

Financial Planning and Supervision Commission

The Financial Planning and Supervision Commission is a continuing law body established to oversee a local government or school district that is in a fiscal emergency. The commission members include the TOS, the Director of Budget and Management, and local government officials specified in the law. Current law allows the TOS to designate a deputy Treasurer or Director within the office of the TOS or any other appropriate person who is not an employee of the TOS to be a part of the Commission. The bill eliminates the requirement of a deputy Treasurer

¹⁹ R.C. 3705.242.

²⁰ R.C. 3953.231, 4705.09, and 4705.10.

²¹ R.C. 4511.19(G)(5)(e) and (g).

or director and simply allows the TOS to designate an individual within the office or any other appropriate person.²²

TOS Contingent Fund

The bill eliminates the TOS Contingent Fund. Under current law, money received by the TOS that is provisional in nature or the disposition of which cannot be determined immediately must be credited to the TOS Contingent Fund until a determination is made as to the final disposition of the money.²³

Ohio Tuition Trust Authority agreements

Under current law, the Ohio Tuition Trust authority may enter into an agreement with the TOS for the TOS to receive, and credit to the Ohio Tuition Trust Fund or Variable College Savings Program Fund, from any bank or savings and loan association in Ohio, amounts that a depositor of the bank or association authorizes the bank or association to withdraw periodically from the depositor's account for the purpose of purchasing tuition units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract. The bill eliminates this provision. The bill also eliminates a provision that allows the Ohio Tuition Trust Authority to enter into a cooperative agreement with the TOS to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts.²⁴

Contracts with financial institutions examination

Under continuing law, unchanged by the bill, a board of county commissioners may enter into a contract with any financial institution for the purpose of receiving and processing property and manufactured home tax payments. Current law specifies that these records are subject to examination by the Auditor of State to the same extent as if the services to the institutions were performed by the TOS. The bill instead provides that these records are subject to examination by the State Auditor to the same extent as if the services were performed by the county treasurer.²⁵

Rules related to scholarship and fellowship programs

Continuing law requires the Chancellor of Higher Education to adopt rules establishing policy guidelines for the implementation of the Ohio Outstanding Scholarship and the Ohio Priority Needs Fellowship. The bill eliminates the requirement that these rules be approved by the TOS.²⁶

²² R.C. 118.05.

²³ R.C. 113.10, repealed and R.C. 113.09.

²⁴ R.C. 3334.08 and 3334.11.

²⁵ R.C. 323.611.

²⁶ R.C. 3333.374.

Technical changes

The bill makes technical changes related to the TOS.²⁷

Local treasurers

Under continuing law, nonexempt local treasurers are required to complete continuing education on investments, cash management, the collection of taxes, and in any other area the TOS determines is reasonably related to the duties of the treasurer. Under current law, after the successful completion of continuing education, the TOS must issue a certificate of completion. The bill instead requires that the treasurer of a subdivision retain proof of attendance and when the Auditor of State conducts a routine audit, the Auditor of State must report whether the local treasurer is in compliance with the continuing education requirements.

Additionally, the bill revises the local treasurers continuing education requirement exemption by: (1) removing the requirement that the local treasurers annually provide notice of the exemption to the Auditor, and (2) adding that a treasurer who exclusively utilizes active deposits is exempt.

Under continuing law, the TOS may charge local treasurers a registration fee for the continuing education. The bill authorizes the TOS to charge a registration fee or annual fee for the training and continuing education costs, but not both, and specifies that the fee includes general costs of administering the program. The bill requires the TOS to adopt rules for the implementation of these provisions. Current law authorizes the adoption of rules.²⁸

County treasurers' initial education programs

Under continuing law, the Auditor of State and the TOS must conduct education programs for elected county treasurers. Current law requires that the initial education programs be held between December 1 and the first Monday of the September following the treasurer's election. The bill simply says that the program must be completed within 120 days of taking the oath of office. The law authorizes similar initial education programs for a county treasurer who is appointed to fill a vacancy or who is elected at a special election. The bill, instead, requires these county treasurers to also complete the initial education program.

Current law requires the Auditor of State and the TOS to each determine different content that a county treasurer must complete and requires a county treasurer to take a total of 26 hours of initial education before taking office – 13 hours of education from the Auditor of State's program and 13 hours from the TOS. The bill instead requires a county treasurer to take at least 13 hours of initial education within 120 days of taking the oath of office, with the TOS determining specific subject areas for content that are reasonably related to the duties of the office of county treasurer. Under the bill, initial education hours may be completed up to one year before a person taking the oath of office. Any treasurer that accumulates more than the required 13 hours of initial education may credit up to five education hours towards applicable continuing

²⁷ R.C. 120.52, 128.54, and 956.13.

²⁸ R.C. 135.22.

education requirements. Any treasurer who participates in training provided by the Auditor of State related to public records and open meetings may apply up to three hours toward the initial education requirement.²⁹

Current law only allows registration fees for training. In contrast, the bill allows the TOS to charge the counties a registration or annual fee for the training, but not both.³⁰

County treasurer continuing education requirements

Continuing law, modified by the bill, requires county treasures to undergo continuing education. Under current law, a county treasurer must complete at least 24 hours of continuing education during each biennial cycle. The TOS must determine the manner and content of the continuing education related to financial matters and the Auditor of State is required to determine the content related to general governance. Under the bill, a county treasurer must complete at least ten hours of continuing education during each calendar year that begins more than 120 days after the county treasurer takes the oath of office. Additionally, it appears that, similar to the initial education program, the TOS is responsible for determining the form and content of continuing education, though this is not explicitly stated in the bill. The bill also exempts a county treasurer that makes no investments or invests only in certain permitted investments³¹ from the continuing education requirements. For those treasurers who accumulate more than the required ten hours annually, the bill allows up to five continuing education hours to be applied toward the next calendar year's requirement. Current law allows a treasurer to roll over up to six hours of continuing education provided by the TOS and up to six hours provided by the Auditor of State towards the treasurer's biennial continuing education requirement. Similarly, a treasurer who participates in training provided by the Auditor of State related to public records and open meetings may apply up to one and a half hours toward the bill's annual continuing education requirement, as opposed to three hours towards the biennial requirement imposed under current law.³²

Continuing law allows the TOS to permit any other interested person to attend the continuing education courses for local treasurers, provided the interested person pays the full registration fee. The bill exempts an interested person from paying the registration fee if the person paid the annual registration fee for continuing education.³³

²⁹ R.C. 321.46(A), (B), and (E)(1).

³⁰ R.C. 321.46(C) and (D).

³¹ The bill creates an exemption, in R.C. 321.47(A), from the continuing education requirement for a county treasurer that "invests only in those investments permitted by" R.C. 321.46(F)(2). However, R.C. 321.46(F)(2) refers to certain unlawful investments that result in the county treasurer losing its investment authority. The bill may intend to refer to investments under R.C. 321.46(F)(1), which concerns investments into certain funds, such as the Ohio Subdivisions Fund. An amendment may be needed to correct this.

³² R.C. 321.46(B)(3) and 321.47(A).

³³ R.C. 321.46(D).

Current law requires, no later than January 15 of the year following the completion of each biennial cycle, the Auditor of State to notify the TOS of the continuing education hours under the Auditor's supervision completed by each county treasurer. Then, by January 31, the TOS is required to determine whether a county treasurer has failed to comply with the continuing education requirements. The bill instead requires each county treasurer to submit to the TOS a complete listing of all continuing education the treasurer has completed no later than January 31 of each year and for the TOS to then determine if the treasurer has failed to meet the continuing education requirements.³⁴

Local investment reports

Continuing law outlines which securities and obligations investing authorities of counties can invest in for their inactive or public funds. Continuing law also requires the investing authority to establish and maintain an inventory of all obligations and securities acquired by the investing authority. Current law requires the inventory and the monthly portfolio report to be filed with the Board of County Commissioners and the TOS, which the TOS is then required to make the reports public and available on the TOS website. The bill eliminates the TOS reporting requirement.³⁵

Insurance premium tax

Electronic payments

The bill requires insurance companies to make annual franchise tax payments electronically. Under current law, electronic payments are optional.³⁶

Underpayment

Under continuing law, an insurance company that fails to pay insurance premium taxes is subject to a collection action upon certification of the delinquency to the Attorney General. The bill requires the TOS to make this certification, replacing the Superintendent of Insurance's authority to do so under current law, authorizes related interest and penalties to be included in the certified amount, and requires the Attorney General to direct which county such action can be brought in, replacing the Superintendent and Tax Commissioner's authority to do so under current law.³⁷

The bill also makes the following changes to the underpayment of domestic insurance premiums taxes:

- Modifies the requirement to add interest to unpaid taxes to only require interest be added to deficiencies over \$1.

³⁴ R.C. 321.47.

³⁵ R.C. 135.35(L)(5) and 113.43, repealed.

³⁶ R.C. 5725.22(B) and 5729.05.

³⁷ R.C. 5725.23 and 5729.10.

- Waives the requirement to issue tax bills and refunds for any payment discrepancy of \$1 or less.
- Authorizes the TOS to cancel unpaid or underpaid tax if the debt, including interest, is less than \$50 and the debt has not been certified to the Attorney General for collection.³⁸

Sales tax

The bill transfers responsibility for depositing a portion of sales tax vendor's license fees to the Organized Crime Commission Fund from the TOS to the Attorney General.³⁹

Related tax changes

The bill makes the following changes to the administration of taxes:

- Removes an obsolete reference to the Auditor of State and Treasurer of State in the context of adopting rules related to the distribution of Local Government Fund revenue.⁴⁰
- Removes an outdated reference to the intangible property tax, which is no longer levied.⁴¹

HISTORY

Action	Date
Introduced	10-21-25

ANSB0300IN-136/ks

³⁸ R.C. 5725.22(D), (E), and (F).

³⁹ R.C. 5739.17.

⁴⁰ R.C. 5747.51.

⁴¹ R.C. 5725.23.