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H.B. 440
134th General Assembly

Final Analysis

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Primary Sponsors: Reps. Swearingen and White

Effective date: Emergency: Agricultural linked deposit provisions effective April 20, 2022; interim funds provisions effective July 21, 2022

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SUMMARY

Agricultural linked deposits

- Makes agricultural cooperatives eligible to borrow under the Agricultural Linked Deposit Program.
- Removes the explicit \$150,000 cap on individual loans obtained through the program, leaving the cap to be determined by the Treasurer of State.
- Eliminates the requirement that the Treasurer attempt to place up to \$165 million in agricultural linked deposits.

Investment of state interim funds

- Expands the types of obligations in which the Treasurer may invest state interim funds.
- Allows the Treasurer to enter into agreements with the state, political subdivisions, nonprofits, and state universities regarding certain terms and conditions relating to these new investment vehicles.
- Creates the State Securities Tender Program Fund, consisting of certain fees paid to the state for interim fund investments and used solely for operations of the Office of the Treasurer of State.

DETAILED ANALYSIS

Agricultural linked deposits

The act expands the types of businesses eligible to borrow under the Agricultural Linked Deposit Program (Ag-LINK), changes the statutory cap in Ag-LINK loans to a cap established by the State Treasurer, and removes the requirement that the Treasurer attempt to place up to \$165 million in the Ag-LINK Program.

Ag-LINK utilizes linked deposits to allow certain agricultural businesses to obtain low-cost loans to be used exclusively for agricultural purposes on land or in facilities owned or operated by the business. A linked deposit is a certificate of deposit or other instrument placed by the Treasurer of State with a financial institution, in which the Treasurer agrees to accept a below-market interest rate for the deposit. In return, the financial institution agrees to pass the savings on to the approved borrower in the form of an interest-rate reduction. Ag-LINK is one of several linked deposit programs established in the Revised Code.¹

The act expands the types of businesses eligible to borrow under Ag-LINK to include agricultural cooperatives. An agricultural cooperative is an association organized anywhere in the United States to which all of the following apply:

- The cooperative engages in any activity in connection with the propagation, raising, producing, harvesting, storing, drying, handling, processing, or marketing of agricultural products; procuring equipment and supplies or providing services for producers and others; bargaining; and any related activity;
- Producers or agricultural cooperatives exercise more than half the voting control of the cooperative;
- The cooperative does at least half its business with producers or agricultural cooperatives.²

Prior law limited the amount of any loan made under Ag-LINK to \$150,000. The act removes this explicit limit and leaves the amount to be determined by the Treasurer.³

Under continuing law, the Treasurer is permitted to invest in all linked deposit programs established by the Revised Code so long as the amount invested does not exceed 12% of the state's total average investment portfolio as determined by the Treasurer. Law also required the Treasurer to attempt to place up to \$165 million in agricultural linked deposits. The act eliminates this latter requirement.

Lastly, the act repeals an expired provision relating to agricultural linked deposits.⁴

¹ R.C. 135.61 to 135.97, most of which are not in the act; see [Ag-LINK: Reduced Rates on Operating Loans](#), which may be accessed by conducting a keyword "aglink" search on the Treasurer of State's website: tos.ohio.gov.

² R.C. 135.71(A)(3); R.C. 1729.01, not in the act.

³ R.C. 135.73(A).

⁴ R.C. 135.631, repealed and 135.731, repealed, with a conforming change in R.C. 135.82; R.C. 135.63, not in the act.

Interim funds

Investment vehicles

The Revised Code specifies the types of obligations in which the Treasurer of State may invest state interim funds, which are state dollars that have been received by the state treasury but are not needed to meet immediate obligations of the state.⁵ Among other things, the Treasurer may invest interim funds in bonds, notes, and other obligations of the state, including obligations issued by the Treasurer, the Ohio Public Facilities Commission, and other entities. The act adds the Ohio Higher Educational Facility Commission and state institutions of higher education (any state university or college, community college, state community college, university branch, or technical college) to this list.⁶

The act also allows the Treasurer to invest interim funds in obligations issued by the State of Ohio, any political subdivision, or by or on behalf of any nonprofit corporation or association doing business in Ohio rated in the four highest categories by at least one nationally recognized standard rating service and identified in an agreement described below. An obligation is so rated if either the debt interest itself or the obligor is rated in the four highest categories by such a rating service.⁷

Agreements

Agreements with the state, political subdivisions, and nonprofits

When obligations issued as described in the paragraph above have a demand feature to tender the obligation at par plus accrued interest, the act permits the Treasurer of State and any entity issuing the obligations to enter into an agreement providing for the following:

- The purchase of the obligations by the Treasurer on terms and subject to conditions set forth in the agreement;
- Payment to the Treasurer of a fee as consideration for the agreement of the Treasurer to purchase the obligations.

The act prohibits the Treasurer from entering into agreements for obligations that, in the aggregate, exceed 10% of the state's total average portfolio, as determined by the Treasurer.⁸

State Securities Tender Program Fund

The act creates the State Securities Tender Program Fund (fund) in the state treasury, which the Treasurer may use solely for operations of the Office of the Treasurer of State. The

⁵ R.C. 135.143; R.C. 135.01, not in the act.

⁶ R.C. 135.143(A)(3)(a); R.C. 3345.011, not in the act.

⁷ R.C. 135.143(A)(14) and (K)(3).

⁸ R.C. 135.143(K)(1) and (2).

fund is composed of all money collected by the Treasurer from the fee imposed as described in “**Agreements with the state, political subdivisions, and nonprofits**” above. The Treasurer must deposit all such fees into the fund. The amount of income from the State Securities Tender Program credited to the fund may not exceed 1% of the average par value of obligations subject to the agreements. All other income must be credited to the General Revenue Fund.⁹

Agreements with a state university or college

When a state university or college issues obligations, the act permits the Treasurer and the state university or college to enter into an agreement providing for the following:

- The purchase of the obligations by the Treasurer on terms and subject to conditions set forth in the agreement;
- The Department of Higher Education to withhold, in the event the state university or college does not pay bond service charges when due, appropriated funds allocated to the state university or college in an amount sufficient to pay the bond service charges, less any amounts deposited for that purpose under the bond proceedings. Upon the request of the Treasurer, the Department of Higher Education must promptly pay to the Treasurer the amounts withheld.

The act uses the Education Law’s definition of “state university or college,” which means the following institutions: University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Northeast Ohio Medical University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, Youngstown State University, and the board of trustees of each.¹⁰

HISTORY

Action	Date
Introduced	09-30-21
Reported, H. Financial Institutions	12-08-21
Passed House (91-0)	12-09-21
Reported, S. Financial Institutions and Technology	03-30-22
Passed Senate (32-0)	04-06-22

22-ANHB440EN-134/ar

⁹ R.C. 135.143(K)(4).

¹⁰ R.C. 135.143(L); R.C. 3345.12 and 3345.011, not in the act.