

SENATE, No. 1811

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex)

SYNOPSIS

Establishes certain requirements for banks that serve as depositories of public funds.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning banks and public funds, amending P.L.1977,
2 c.281, and amending and supplementing P.L.1956, c.174.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.1956, c.174 (C.52:18-16.1) is amended to
8 read as follows:

9 1. The State Treasurer shall, except as otherwise provided,
10 deposit to his credit as treasurer all public moneys coming into his
11 hands, within 3 days after receiving the same, in such of the
12 national banks located in this State, in institutions authorized by
13 this State to carry on a banking or savings and loan business, and in
14 the State of New Jersey Cash Management Fund established
15 pursuant to section 1 of this amendatory and supplementary act as
16 he may select, that will allow interest on all balances. In so doing,
17 the treasurer shall from time to time, by public notice, offer at
18 auction State deposits and invite tenders therefor subject to such
19 terms and conditions as he may prescribe. Any institution that
20 seeks to enter into a contract to serve as a depository of public
21 funds, or that serves as a depository of public funds pursuant to this
22 section shall conform with the requirements of section 3 of
23 P.L. c. (C.)(pending before the Legislature as this bill).
24 All interest earned on deposits shall be credited to the State. When
25 in the judgment of the State Treasurer it is not compatible with the
26 working capital requirements of the State or with public safety to
27 deposit public moneys or portion thereof, upon interest-bearing
28 terms, as heretofore provided in this section, the State Treasurer
29 may deposit the same without interest or open-time accounts with
30 interest subject to withdrawal upon notice, conforming with Federal
31 laws and regulations governing the same, in such of the national
32 banks located in this State and institutions authorized by this State
33 to carry on a banking or savings and loan business as he may select,
34 until such a condition has, in his judgment, ceased to exist.

35 In all cases where a deposit is made in a national bank located in
36 this State or institution authorized by this State to carry on a
37 banking or savings and loan business, pursuant to this section, the
38 State Treasurer shall require from any such institution a deposit of
39 bonds, notes, certificates of indebtedness or bills or other
40 obligations of or guaranteed by the United States; or bonds or other
41 obligations of or guaranteed by the State of New Jersey; or any
42 other obligations now or hereafter authorized by law as security for
43 public deposits; designed to secure any deposit made pursuant to
44 this section; provided, that such requirement shall be deemed to be
45 met if the Federal Reserve Bank of New York or the Federal

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 Reserve Bank of Philadelphia or any other banking institution with
2 total assets in excess of \$300,000,000.00 located within the Second
3 or Third Federal Reserve Districts and approved for such purpose
4 by the State Treasurer certifies to the State Treasurer that, pursuant
5 to authority given by the depository, it holds obligations, owned by
6 the depository, of the kind and in the amount required by the State
7 Treasurer to secure any such deposit. No bank shall be permitted
8 to hold securities, of the kind hereinbefore described, as security for
9 public moneys on deposit in the same bank.

10 No State or national bank or savings and loan association in
11 which the State Treasurer makes deposits of public moneys as
12 above provided shall be required to secure such deposits as required
13 by this section, to the extent that such deposits are insured by the
14 Federal Deposit Insurance Corporation [or by the Federal Savings
15 and Loan Insurance Corporation] or by any other Federal agency
16 which insures deposits made in state or national banks or savings
17 and loan associations.

18 (cf: P.L.1977, c.339, s. 1)

19
20 2. Section 1 of P.L.1977, c.281 (C.52:18A-90.4) is amended to
21 read as follows:

22 1. a. Notwithstanding the provisions of section 2 of P.L.1970,
23 c.270 (C.52:18A-90.2), the Director of the Division of Investment
24 may, subject to the approval of the State Investment Council and
25 the State Treasurer, establish, maintain and operate a common trust
26 fund to be known as the State of New Jersey Cash Management
27 Fund in which may be deposited the surplus public moneys of the
28 State, its counties, municipalities and school districts and the
29 agencies or authorities created by any of these entities. This fund
30 shall be considered a legal depository for public moneys and shall
31 satisfy the requirements in that regard of section 1 of P.L.1956,
32 c.174 (C.52:18-16.1) and N.J.S.40A:5-14.

33 b. The State Treasurer shall be the custodian of the fund and
34 may receive public moneys paid into the fund by any other
35 custodian of public moneys for the purpose of holding and investing
36 said moneys. In that capacity, he may enter into an agreement with
37 any one or more of the national banks and the banks authorized by
38 this State to carry on a banking business, as he may select, for the
39 custodianship of securities held in the fund and for recording the
40 amounts deposited and withdrawn by each participant, the
41 investment transactions entered into, and the balance to each
42 participant's credit each day. A bank selected by the State
43 Treasurer as custodian pursuant to this section shall have a physical
44 presence in this State in the form of a principal office or branch
45 office [and] , shall employ New Jersey residents, and shall conform
46 with the requirements of section 3 of P.L. c. (C.)(pending
47 before the Legislature as this bill). Each bank selected by the State

1 Treasurer may use recognized depositories or clearinghouses for the
2 securities held in the fund or may use other banks as sub-custodians
3 or sub-fiscal agents for these securities, provided that in every case
4 each bank selected by the State Treasurer shall retain primary
5 responsibility for these securities.

6 c. If a bank selected by the State Treasurer delegates its
7 responsibilities as custodian or fiscal agent, or both, to a sub-
8 custodian or sub-fiscal agent, the sub-custodian or sub-fiscal agent
9 shall be responsible for the services delegated to it to the same
10 degree as the primary custodian or primary fiscal agent and shall
11 maintain accounting records and be otherwise held accountable to
12 the same degree of fiduciary duty and responsibility as the
13 appointing primary custodian or fiscal agent.

14 d. A bank selected by the State Treasurer as a primary
15 custodian or fiscal agent which delegates its responsibilities as
16 custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal
17 agent, shall not be relieved of its fiduciary duties and
18 responsibilities.

19 e. The State Treasurer may promulgate such rules and
20 regulations pursuant to the "Administrative Procedure Act,"
21 P.L.1968, c.410 (C.52:14B-1 et seq.), as he deems necessary for the
22 efficient administration of the State of New Jersey Cash
23 Management Fund, including but not limited to, (1) the
24 specification of minimum amounts which may be deposited in the
25 fund and minimum periods of time for which deposits shall be
26 retained in the fund; (2) creation of a reserve for losses; (3)
27 provision for payment of administration expenses from its earnings;
28 and (4) distribution of the earnings in excess of such expenses or
29 allocation of losses to the several participants in a manner which
30 equitably reflects the differing amounts of their respective
31 investments and the differing periods of time for which such
32 amounts were in the custody of the fund.

33 f. The Director of the Division of Investment may invest the
34 public moneys constituting the State of New Jersey Cash
35 Management Fund in the same types of investments and subject to
36 the same limitations provided for the investment of funds in the
37 State Treasury. The director shall be responsible for the adequacy
38 of the accounting services provided by the custodian bank and shall
39 maintain such accounting records as may be required for that
40 purpose.

41 g. The Director of the Division of Investment may establish
42 separate sub-funds within the State of New Jersey Cash
43 Management Fund or establish a separate fund where the public
44 moneys are invested in tax-exempt securities in order to segregate
45 and account for separately the investment of moneys from
46 participants in the fund to comply with federal law and regulations
47 governing tax-exempt securities, provided however, that such sub-

1 funds or funds shall be subject to all laws and regulations that apply
2 to the State of New Jersey Cash Management Fund.

3 (cf: P.L.2009, c.150, s.1)
4

5 3. (New section) a. Any bank that serves as a depository of
6 public moneys of the State pursuant to section 1 of P.L.1956, c.174
7 (C.52:18-16.1) or section 1 of P.L.1977, c.281 (C.52:18A-90.4)
8 shall provide to the State Treasurer:

9 (1) a statement of community reinvestment activities. The
10 statement shall be specific to New Jersey and contain, but not be
11 limited to, the following information:

12 (a) the number, size, and type of small business loans;

13 (b) the number of home mortgages;

14 (c) the number of home improvement loans;

15 (d) the number of community development loans;

16 (e) the number of investments within the State of New Jersey;
17 and

18 (f) any participation in the Banking Development District
19 Program, pursuant to P.L.2011, c.24 (C.17:16Z-1 et seq.).

20 (2) a statement of corporate citizenship, which shall contain, but
21 not be limited to, a description of participation in charitable
22 programs or scholarships within the State of New Jersey, and
23 internal policies regarding the utilization of subcontractors who are
24 designated as owned by women, minorities, or persons with
25 disabilities; and

26 (3) a certification as to whether the bank:

27 (a) is currently in compliance with all applicable consumer
28 financial protection laws, including any law or regulation that
29 prohibits illegal predatory consumer adverse practices, including
30 those used as a basis for an employee's compensation, promotion,
31 or discipline;

32 (b) sets or allows individual or branch-level goals or
33 requirements for the sale of a consumer financial service;

34 (c) considers the quantity of an employee's sales of consumer
35 financial products and services as a basis for the employee's
36 advancement, discipline, termination, or compensation; and

37 (d) has policies, protocols, and training in place at both the
38 employee and management level designed to prevent the abuse of
39 sales of consumer financial services and products.

40 b. The information required pursuant to subsection a. of this
41 section shall be provided on a form created by the State Treasurer,
42 and signed by an authorized representative of the bank. The
43 information shall be provided when a bank seeks to enter into a
44 contract to serve as a depository of public funds, or prior to its
45 selection as a custodian of public funds, and shall be provided
46 annually by July 1 of each year if the bank is selected as a
47 depository of public funds. The information filed by the bank shall

1 be posted on the website of the State Treasurer for public viewing
2 within 60 days of the beginning of each new fiscal year, and shall
3 be available for public inspection and copying.

4
5 4. This act shall take effect immediately, and apply to contracts
6 entered into by the State for deposits of public funds after that date.

7
8
9 STATEMENT

10
11 This bill establishes certain requirements for banks that serve as
12 depositories of public funds.

13 Under current law, the State Treasurer is required to deposit all
14 public moneys in national banks located in this State, in institutions
15 authorized by this State to carry on a banking or savings and loan
16 business and in the State of New Jersey Cash Management Fund.
17 Current law places certain requirements on how and where the State
18 Treasurer deposits those funds.

19 Under the bill, any bank which seeks to enter into a contract to
20 serve as a depository for State funds or is selected to serve as a
21 custodian of State funds must provide to the State Treasurer certain
22 information, including a statement of community reinvestment
23 activities, a statement of corporate citizenship, and a consumer
24 protection certification.

25 The statement of community reinvestment activities must be
26 specific to New Jersey and contain, but not be limited to, the
27 following information:

- 28 (1) the number, size, and type of small business loans;
29 (2) the number of home mortgages;
30 (3) the number of home improvement loans;
31 (4) the number of community development loans;
32 (5) the number of investments within the State of New Jersey;
33 and
34 (6) any participation in the Banking Development District
35 Program.

36 A bank must also provide a statement of corporate citizenship,
37 which must contain, but not be limited to, information on the bank's
38 participation in charitable programs or scholarships within the State
39 of New Jersey, and internal policies regarding the utilization of
40 subcontractors who are designated as owned by women, minorities,
41 or persons with disabilities.

42 The bill also requires a participating bank to certify as to whether
43 it:

- 44 (1) is currently in compliance with all applicable consumer
45 financial protection laws, including any law or regulation that
46 prohibits illegal predatory consumer adverse practices, including

1 those used as a basis for an employee's compensation, promotion,
2 or discipline;

3 (2) sets or allows individual or branch-level goals or
4 requirements for the sale of a consumer financial service;

5 (3) considers the quantity of an employee's sales of consumer
6 financial products and services as a basis for the employee's
7 advancement, discipline, termination, or compensation; and

8 (4) has policies, protocols, and training in place at both the
9 employee and management level designed to prevent the abuse of
10 sales of consumer financial services and products.

11 The bill requires the information to be provided on a form
12 created by the State Treasurer, and signed by an authorized
13 representative of the bank. The information must be provided when
14 a bank first seeks to enter into a contract to serve as a depository of
15 public funds, or prior to its selection as a custodian of public funds,
16 and then annually by July 1 of each year. The information filed by
17 the bank must be posted on the website of the State Treasurer for
18 public viewing within 60 days of the beginning of each new fiscal
19 year, and be available for public inspection and copying.