



Ohio Legislative Service Commission

Bill Analysis

Niyah Walters

H.B. 415

131st General Assembly
(As Passed by the House)

Reps. Schuring, Anielski, Antonio, Baker, Barnes, Blessing, Boose, Butler, Cera, Clyde, Conditt, Dever, DeVitis, Fedor, Green, Ginter, Grossman, Hackett, Hambley, Henne, Manning, McColley, M. O'Brien, S. O'Brien, Perales, Ramos, Retherford, Rezabek, Rogers, Scherer, K. Smith, Sweeney, Thompson, Young, Terhar, Kuhns, Brown, Lepore-Hagan, Strahorn

BILL SUMMARY

- Establishes the Business Linked Deposit Program.
- Permits credit unions to participate in the Business Linked Deposit Program.
- Permits credit unions to participate in the Agricultural Linked Deposit Program.
- Adds business linked deposits to the list of programs the Treasurer of State may invest or execute transactions of interim funds.
- Adds agricultural linked deposits, business linked deposits, and housing linked deposits to the list of public deposits for the purpose of pledging securities.

CONTENT AND OPERATION

Background – linked deposit programs

Under the state's linked deposit programs, the Treasurer of State places state money with an eligible lending institution, where the money earns a rate below current market rates. In exchange, under most of the programs, including the Business Linked Deposit Program created by the bill, the institution agrees to lend the value of the deposited money to eligible program participants at a rate below current market borrowing rates as determined under the specific program. The Treasurer's investment

in all of the state's linked deposit programs cannot exceed 12% of the state's total average investment portfolio.¹

Business Linked Deposit Program

The bill creates the Business Linked Deposit Program.²

Loan application, package, and agreement

Under the bill, an *eligible lending institution* (a credit union) that desires to receive a *business linked deposit* must accept and review applications for loans from *eligible small businesses* following continuing law procedures, and forward to the Treasurer a linked deposit loan package. To be eligible, the business must be for profit, have requisite Ohio contacts, employ less than 150 people, and be able to create or save jobs as a result of the loan.³ (See "**Definitions**," below, for a complete description of the criteria.)

Once the Treasurer receives the loan package from the eligible lending institution, the Treasurer then decides whether to accept or reject a business linked deposit package, or any portion of the package, and must enter into a deposit agreement regarding any accepted loan packages. The Treasurer must follow continuing law procedures for accepting or rejecting loan applications.⁴ The bill sets the monetary limit of a loan issued under the program at \$400,000.⁵

Loan rates

Under the bill, once the business linked deposit has been placed with an eligible lending institution, the institution is required to lend the funds to each approved and eligible small business listed in the linked deposit loan package in accordance with the deposit agreement. The loan must be at a rate that reflects the following percentage rate reduction below the present borrowing rate applicable to each eligible small business:

- (1) 3% if the present borrowing rate is greater than 5%;
- (2) 2.1% if the present borrowing rate is equal to or less than 5%.⁶

¹ R.C. 135.63.

² R.C. 135.77 to 135.774, with conforming changes in 135.63, 1733.04, and 1733.24.

³ R.C. 135.77 and 135.772(A) and R.C. 135.64, not in the bill.

⁴ R.C. 135.773 and R.C. 135.65, not in the bill.

⁵ R.C. 135.772(B).

⁶ R.C. 135.774(A).



For example, if the present borrowing rate is 7.5%, the loan would be 4.5%.

Administration of program and compliance

The bill requires the Treasurer to take any and all steps necessary to implement the Business Linked Deposit Program and monitor compliance of eligible lending institutions and eligible small businesses, including the development of guidelines as necessary. The Treasurer also must require the eligible lending institution to complete a certification of compliance with the bill's provisions in the form and manner prescribed by the Treasurer.⁷

Immunity for payment of loans

Ohio and the Treasurer are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible small business under the bill. Any delay in payments or default on the part of an eligible small business does not in any manner affect the deposit agreement between the eligible lending institution and the Treasurer.⁸

Purpose

The stated purpose for this program is to foster economic growth and development within Ohio's small businesses, and to protect Ohio jobs.⁹

Definitions

The bill adopts the following definitions for purposes of the Business Linked Deposit Program:

"Business linked deposit" means a certificate of deposit or other financial institution instrument placed by the Treasurer with an eligible lending institution in accordance with the bill's provisions.

"Eligible lending institution" means any of the following:

(1) A federal credit union located in Ohio;

(2) A credit union that is chartered under the laws of another state, is located in Ohio, and is licensed by the Superintendent of Credit Unions as a foreign credit union;

⁷ R.C. 135.774(A) and (B).

⁸ R.C. 135.774(C).

⁹ R.C. 135.771.



(3) An Ohio-chartered credit union located in Ohio.

"**Eligible small business**" means any person that has all of the following characteristics:

(1) Is domiciled in Ohio;

(2) Maintains offices and operating facilities exclusively in Ohio and transacts business in Ohio;

(3) Employs fewer than 150 employees, the majority of whom are Ohio residents;

(4) Is organized for profit;

(5) Is able to save or create one full-time job or two part-time jobs in Ohio for every \$50,000 borrowed.

"**Full-time job**" means a job with regular hours of service totaling at least 40 hours per week or any other standard of service accepted as full-time by the employee's employer.

"**Loan**" means a contractual agreement under which an eligible lending institution agrees to lend money in the form of an upfront lump sum, a line of credit, or any other reasonable arrangement approved by the Treasurer.

"**Part-time job**" means a job with regular hours of service totaling fewer than 40 hours per week or any other standard of service accepted as part-time by the employee's employer.¹⁰

Uniform Depository Law – other changes

Interim funds

Pursuant to continuing law under the Uniform Depository Law¹¹ the Treasurer is authorized to invest the interim funds of the state in specified classifications of obligations. Under that authority, the Treasurer may invest in certificates of deposit in eligible institutions applying for interim moneys under the Uniform Depository Law. The bill permits these investments to include business linked deposits.¹²

¹⁰ R.C. 135.77.

¹¹ R.C. Chapter 135.

¹² R.C. 135.143(A)(8).



Security

Generally, under the Uniform Depository Law, an institution designated as a public depository and awarded certain public deposits must provide security for the repayment of all public deposits by selecting one of the methods described in the Law. The bill adds agricultural linked deposits, business linked deposits, and housing linked deposits as public deposits triggering this security requirement.¹³

Agricultural Linked Deposit Program – credit unions may participate

The bill expands the definition of "eligible lending institutions" under the Agricultural Linked Deposit Program to include credit unions, specifically all of the following:

- (1) A federal credit union located in Ohio;
- (2) A credit union that is chartered under the laws of another state, is located in Ohio, and is licensed by the Superintendent of Credit Unions as a foreign credit union;
- (3) An Ohio-chartered credit union located in Ohio.

In a conforming change, the bill authorizes Ohio-chartered credit unions to participate in this program.¹⁴

HISTORY

ACTION	DATE
Introduced	12-14-15
Reported, H. Financial Institutions, Housing & Urban Development	02-16-16
Passed House (81-12)	02-24-16

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¹³ R.C. 135.18(A).

¹⁴ R.C. 135.71(B)(3), 1733.04, and 1733.24.

