Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 229 and 230 (as passed by the Senate)
Senate Bill 233 (Substitute S-1 as passed by the Senate)
Senate Bill 234 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Joel D. Gougeon (Senate Bill 229)
Senator Jim Berryman (Senate Bill 230)
Senator Loren Bennett (Senate Bill 233)
Senator Michael J. Bouchard (Senate Bill 234)
Committee: Financial Services

Date Completed: 4-14-97

RATIONALE

The Federal Riegle-Neal Interstate Banking and Branching Efficiency Act was signed into law in 1994. Among other things, that Act will allow interstate branching of bank operations by merger after June 1, 1997. (That is, a bank chartered in one state may acquire or merge with a bank or bank branch in another state without obtaining a charter in the other state.) The Federal Act provides, however, for states to opt-in early or opt-out of interstate branching before June 1, 1997. Public Act 202 of 1995 amended the Banking Code to provide for Michigan's early opt-in to interstate bank branching. That Act allows out-of-state banks to establish branches in Michigan, and they have done so. The Federal Act and Michigan's opt-in to interstate bank branching are expected to provide equal footing to all financial institutions operating in the State. Michigan's Constitution and various State statutes, however, evidently may pose problems for the implementation of fair competition in some banking operations.

State surplus funds and funds of political subdivisions of the State may not be deposited in out-of-state, state-chartered banks or in out-of-state savings banks, savings and loan associations, or credit unions. The Michigan Constitution (Article IX, Section 20) requires that eligible depositories for State surplus funds be organized under Michigan or Federal law. By statute, deposits of surplus funds of political subdivisions of the State may be deposited as is allowed for State surplus funds. Consequently, out-of-state, state-chartered financial institutions operating in Michigan under the provisions of the Riegle-Neal Act and Michigan's early opt-in to interstate branching may not receive deposits of State or local surplus funds. This situation may present potential competitive inequalities among financial institutions operating in Michigan and may prevent the State Treasurer and treasurers of the State's political subdivisions from seeking higher rates of return on the deposit of public funds.

In addition, while Public Act 105 of 1855 mandates that the State Treasurer require "good and ample security" of a financial institution before it is made a depository of State surplus funds, Public Act 40 of the First Extra Session of 1932 prohibits the taking of security for the deposit of local funds. This may prevent local treasurers from adequately protecting public funds against a financial institution's potential losses. Also, the various laws governing the deposit of public funds refer to different types of financial institutions, so that some funds may be deposited only in banks while others may be deposited in any "other depository".

Some people believe that several statutes should be amended to provide for consistent treatment of public funds' depository requirements and of financial institutions operating in Michigan with respect to the deposit of public funds.

CONTENT

Senate Bills 229, 230, and 233 (S-1) would amend various acts to require that money collected under those acts be deposited in a "financial institution". Senate Bill 234 (S-1) would amend the Community College Act to change that Act's definition of "financial

institution". Under all the bills, "financial institution" would mean a state or nationally chartered bank, savings and loan association, savings bank, or credit union whose deposits were insured by an agency of the U.S. government and that maintained a principal office or branch office located in Michigan under the authority of Michigan or U.S. laws.

Senate Bills 229, 230, and 233 (S-1)

Senate Bill 229 would amend the Agricultural Commodities Marketing Act, which currently requires that money collected under it be deposited in a bank or other depository in Michigan. Senate Bill 230 would amend the Charter Water Authority Act, which currently requires the establishment of a depositary account in a bank qualified to do business in Michigan.

Senate Bill 233 (S-1) would amend Chapter 16 of the Revised Statutes of 1846, which specifies powers and duties of townships and township officers and currently requires that a township treasurer deposit money in a bank or any depository authorized by statute for the deposit of township funds. The bill also specifies that assets acceptable for pledging to secure deposits of township funds would be limited to those assets considered acceptable to the State Treasurer to secure deposits of State surplus funds.

Senate Bill 234 (S-1)

The Community College Act allows the treasurer of a community college district, if authorized by resolution of the board of trustees, to invest debt retirement funds, building and site funds, building and site sinking funds, or general funds of the district, and restricts those actions to certain types of investments. One of those authorized investments is for negotiable certificates of deposit, saving accounts, or other interest-earning deposit accounts of a "financial institution", which means a bank that is a member of the Federal Deposit Insurance Corporation (FDIC), a savings and loan association that is a member of the Federal Savings and Loan Insurance Corporation, or a credit union whose deposits are insured by the national credit union administration. Under the bill, "financial institution" would mean a state or nationally chartered bank, savings and loan association, savings bank, or credit union whose deposits were insured by an agency of the U.S. government and that maintained a principal office or branch office located in Michigan under the authority of Michigan or U.S. laws.

The Act also provides that additional funds of a community college district may not be invested or deposited in a bank, savings and loan association, or credit union that is not eligible to be a depository of surplus State funds. The bill, instead, would refer to a financial institution that was not so eligible.

MCL 290.658 (S.B. 229)
121.17 (S.B. 230)
41.77 (S.B. 233)
389.142 (S.B. 234)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the Michigan Financial Institutions Bureau, these bills are part of a larger package of legislation designed to address the issue of public funds deposits in financial institutions operating in Michigan, regardless of the type of institution (e.g., bank, credit union, or savings and loan association) or the chartering entity (e.g., an entity that is State-chartered, nationally chartered and based in Michigan, or chartered by another state but with a Michigan branch, or a branch of a nationally chartered institution based outside of Michigan). Senate Bills 229, 230, 233 (S-1), and 234 (S-1) would provide for a consistent definition of "financial institution" regarding the deposit of public funds so that funds could be deposited in various types of institutions with charters from various public entities. This would put all the financial institutions operating in Michigan on equal footing in this respect, and would allow treasurers to seek the best rates of return possible on the deposit of their public funds. Senate Bill 233 (S-1) also would provide guidance to township treasurers on the types of security they could seek from financial institutions, by specifying that assets acceptable to secure deposits of township funds would be limited to assets acceptable to the State Treasurer to secure deposits of State surplus funds.

Other bills in the larger package of legislation would remove the statutory prohibition against local units' requesting a pledge of collateral from a financial institution and provide a statutory procedure for out-of-state institutions' Michigan branches to organize under Michigan law, thereby accommodating the constitutional prohibition against the deposit of State money in financial institutions other than those "organized under"

Michigan or Federal law.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

A9798\S229A
This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.