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SFA BILL ANALYSIS

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Senate Bills 229, 230, 233, and 234 (as enrolled)

PUBLIC ACTS 20 through 23 of 1997

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: 6-8-98

RATIONALE

The Federal Riegle-Neal Interstate Banking and Branching Efficiency Act was signed into law in 1994. Among other things, that Act allows 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 provided, 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 posed problems for the implementation of fair competition in some banking operations.

State surplus funds and funds of political subdivisions of the State were prohibited from being 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 could 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 could not receive deposits of State or local surplus funds. This situation presented potential competitive inequalities among financial institutions operating in Michigan and prevented the State Treasurer and treasurers of the State's political subdivisions from seeking higher rates of return on the deposit of public funds. Also, the various laws governing the deposit of public funds referred to different types of financial institutions, so that some funds could be deposited only in banks while others could be deposited in any "other depository".

Some people contended 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 amended various acts to require that money collected under those acts be deposited in a "financial institution". Senate Bill 234 amended the Community College Act to change that Act's definition of "financial institution". Under all the bills, "financial institution" means a state- or nationally chartered bank, or a state- or Federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the U.S. government and that maintains a principal office or branch office located in Michigan under Michigan or U.S. laws.

Senate Bills 229, 230, and 233

Senate Bill 229 amended the Agricultural Commodities Marketing Act, which previously required that money collected under it be deposited in a bank or other depository in Michigan. Senate

Bill 230 amended the Charter Water Authority Act, which previously required the establishment of a depositary account in a bank qualified to do business in Michigan.

Senate Bill 233 amended Chapter 16 of the Revised Statutes of 1846, which specifies powers and duties of townships and township officers and previously required 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 are limited to assets considered acceptable to the State Treasurer to secure deposits of State surplus funds; securities issued by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association; or other securities considered acceptable to the township and the financial institution.

Senate Bill 234

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 previously meant a bank that was a member of the Federal Deposit Insurance Corporation (FDIC), a savings and loan association that was a member of the Federal Savings and Loan Insurance Corporation, or a credit union whose deposits were insured by the national credit union administration. Under the bill, "financial institution" means a state- or nationally chartered bank, or a state- or Federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the U.S. government and that maintains a principal office or branch office located in Michigan under Michigan or U.S. laws.

The bill also lists investment pools, as authorized by the Surplus Funds Investment Pool Act, composed entirely of instruments that are legal for direct investment by a community college.

Further, the Act provided that additional funds of a community college district could not be invested or deposited in a bank, savings and loan association, or credit union that was not eligible to be a depository of surplus State funds. The bill, instead, refers to a financial institution that is 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 were 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, and 234 provide for a consistent definition of "financial institution" regarding the deposit of public funds so that funds may be deposited in various types of institutions with charters from various public entities. This puts all the financial institutions operating in Michigan on equal footing in this respect, and allows treasurers to seek the best rates of return possible on the deposit of their public funds. Senate Bill 233 also provides guidance to township treasurers on the types of security they may seek from financial institutions, by specifying that assets acceptable to secure deposits of township funds are limited to assets acceptable to the State Treasurer to secure deposits of State surplus funds.

Legislative Analyst: P. Affholter

FISCAL IMPACT

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

Fiscal Analyst: M. Tyszkiewicz

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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.