

HOUSE RESEARCH

Bill Summary

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Overview

Under current law, a governmental entity must designate a financial institution to be the depository of its public funds. It must also require security for public funds deposited that are in excess of the amount insured by federal deposit insurance.

This bill does two main things. First, it includes changes also made in H.F. No. 2118, which defines "banking day," clarifying *when* the amount of public funds on deposit is determined so that if the amount exceeds what federal deposit insurance will cover, the required amount of security or collateral must be provided. Under current law, it is either not stated when the amount on deposit is determined or it is at the end of the "business day," without saying whether it is the governmental entity's business day or the financial institution's business day. This bill provides that it is determined at the close of the banking day and ties the definition of "banking day" to the definition in the Federal Reserve's regulations.

Second, the bill provides an alternative method of collateralization for certain financial institutions. It permits them to use any combination of collateral or surety bonds to cover the total of public deposits that exceed federal deposit insurance.

The depository law applies to a "government entity," which means a county, city, town, school district, hospital district, public authority, public corporation, public commission, special district, any other political subdivision, except an entity whose investment authority is specified under chapter 11A or 356A. For the

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purposes of sections 118A.02 and 118A.03 (and under the bill, the alternative collateralization method), the term includes an American Indian tribal government entity located within a federally recognized American Indian reservation.

"Financial institution" means a savings association, commercial bank, trust company, credit union, or industrial loan and thrift company.

"Public funds" means all general, special, permanent, trust, and other funds, regardless of source or purpose, held or administered by a government entity, unless otherwise restricted.

1 Banking day. Defines "banking day" by reference to the Federal Reserve Board regulation definition, which provides: "Banking day means that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions." Incorporates the cutoff hour in section 336.4-108, which provides:

"(a) For the purpose of allowing time to process items, prove balances, and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of 2:00 p.m. or later as a cutoff hour for the handling of money and items and the making of entries on its books.

(b) An item or deposit of money received on any day after a cutoff hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day."

2 Government entity. Technical.

3 For deposits beyond insurance. Clarifies *when* it is determined that there are funds in excess of federal deposit insurance coverage on deposit by specifying it is at the close of the financial institution's banking day.

4 Amount. Provides that the collateral required is calculated at the close of the financial institution's banking day, not the business day.

5 Alternative collateralization method.

Subd. 1. Eligible banks. Defines "eligible bank" as a bank, savings association, or industrial loan and thrift company that is well capitalized under the uniform capital requirements established by federal banking regulators. Provides that an eligible bank may choose to use this section instead of Minnesota Statutes, section 118A.03. Provides that an eligible bank that loses its "well capitalized" standing has 30 days to raise its capital ratios to "well capitalized" or lose the option of using this section.

Subd. 2. Protection required. Requires public deposits to be covered by federal deposit insurance or protected by this section.

Subd. 3. Surety bond or collateral acceptable. Permits use of a corporate surety bond to provide collateral for public deposits.

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Subd. 4. Amount of collateral. Provides that the amount of the surety bond must be the amount on deposit at the close of the banking day that is not covered by federal deposit insurance. Requires surety bonds and irrevocable letters of credit to be issued in a manner approved by the state auditor and other types of collateral assigned to public depositors in a manner consistent with other sections of the act.

Subd. 5. Required reporting. Requires an eligible bank to file a report with the state auditor at the same it completes its report to financial institution regulators. Lists content of report and certifications required.

Subd. 6. Collection in the event of default. Provides for collection of collateral in event of bank closing.

Subd. 7. Immunity. Provides that governmental entities and officials using this alternative collateral method are not personally liable for losses from defaults by banks.

6 Effective date. Day after enactment.