



April 5, 2011

**ENGROSSED  
SENATE BILL No. 205**

DIGEST OF SB 205 (Updated March 31, 2011 5:06 pm - DI 101)

**Citations Affected:** IC 5-13.

**Synopsis:** Capital ratio requirement for public depositories. Provides that in order to serve as a depository of public funds, a financial institution does not have to maintain a capital ratio in excess of the minimum required by the institution's governmental supervisory body if the institution has fully collateralized the institution's public funds on deposit by pledging and delivering acceptable collateral to the board for depositories. Provides that a service charge to be paid by a political subdivision to a public depository in which the political subdivision's funds are deposited may be paid from interest earned on the funds in the political subdivision's account with the public depository. Provides that a service charge to be paid by a political subdivision to a public depository for the depository's management of an investment cash management system for the political subdivision may be paid from interest earned on the funds in the political subdivision's account with the public depository that manages the system.

**Effective:** Upon passage.

**Paul, Holdman, Mrvan**

(HOUSE SPONSORS — SAUNDERS, KNOLLMAN, PFLUM, MESSMER)

January 5, 2011, read first time and referred to Committee on Insurance and Financial Institutions.

January 31, 2011, reported favorably — Do Pass.

February 7, 2011, read second time, ordered engrossed.

February 8, 2011, engrossed.

February 10, 2011, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Financial Institutions.

April 4, 2011, amended, reported — Do Pass.

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ES 205—LS 6548/DI 101+



April 5, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## ENGROSSED SENATE BILL No. 205



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-13-9-8 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 8. Any investing officer of a  
3 political subdivision that makes a deposit in any deposit or other  
4 account may be required to pay a service charge to the depository in  
5 which the funds are deposited, if the depository requires all customers  
6 to pay the charge for providing that service. However, the service  
7 charge imposed must be considered in the computation of the interest  
8 rate for determining which depositories are entitled to investments as  
9 prescribed by sections 4 and 5 of this chapter. If the total service charge  
10 cannot be computed before the investment, the investing officer shall  
11 estimate the service charge and adjust the interest rate based on this  
12 estimate. The service charge may be paid:

- 13 (1) by direct charge to the deposit or other account; or
- 14 (2) in any other a manner mutually agreed upon by the investing  
15 officer and the depository: **that subtracts the service charge**  
16 **from interest earned on the funds in the deposit or other**  
17 **account.**

ES 205—LS 6548/DI 101+



1 SECTION 2. IC 5-13-9.5-1, AS AMENDED BY P.L.115-2010,  
 2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 UPON PASSAGE]: Sec. 1. (a) A financial institution may at any time  
 4 file an application to become a depository and receive public funds of  
 5 the state on deposit. Except as provided in IC 5-13-8-1 and  
 6 IC 5-13-8-7, designation of a depository to receive public funds of the  
 7 state qualifies a depository to receive public funds of a political  
 8 subdivision. Applications for the state board of finance must be filed  
 9 with the treasurer of state. The treasurer shall submit each application  
 10 to the board.

11 (b) An application must:

- 12 (1) be made in writing on forms prescribed under section 8 of this  
 13 chapter;  
 14 (2) contain terms and conditions as required and authorized by  
 15 this chapter; and  
 16 (3) offer to:  
 17 (A) receive public funds of the state on deposit; and  
 18 (B) provide the security required by IC 5-13-13-7 for the  
 19 safekeeping and prompt payment of the deposited funds.

20 (c) A financial institution is ineligible to become a depository and  
 21 receive public funds of the state if ~~the institution:~~ **either of the**  
 22 **following applies:**

- 23 (1) **The institution** fails to maintain a capital ratio in excess of  
 24 the minimum required by the governmental supervisory body of  
 25 the institution. ~~or~~ **However, the requirement set forth in this**  
 26 **subdivision does not apply if the institution has fully**  
 27 **collateralized the institution's public funds on deposit by**  
 28 **pledging and delivering acceptable collateral to the board for**  
 29 **depositories, or to the board's agent, in accordance with**  
 30 **IC 5-13-13 and with any applicable rules of the board.**  
 31 (2) **The institution** has been found by the department of financial  
 32 institutions under IC 28-1-2-40, or the financial institution's  
 33 primary federal regulator, to not be in substantial compliance with  
 34 the federal Credit Card Accountability Responsibility and  
 35 Disclosure Act of 2009 as it applies to Indiana borrowers.

36 If the financial institution is already a depository, the institution may  
 37 continue to hold the public funds until maturity to avoid the imposition  
 38 of a penalty upon the depositor, although the financial institution may  
 39 not accept the public funds for reinvestment and may not accept  
 40 additional public funds. **If necessary**, a determination of the ratio  
 41 described in ~~this subsection~~ **subdivision (1)** must be based on the  
 42 institution's most recent periodic statement of condition filed with the

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1 institution's governmental supervisory body under the regulatory  
2 accounting principles as prescribed by the supervisory body.

3 (d) A financial institution shall furnish to the board a certificate  
4 executed by an officer of the institution signifying that the institution  
5 satisfies:

- 6 (1) the requirements of subsection (c); and
  - 7 (2) the requirement in section 6(b) of this chapter that the sum of:
    - 8 (A) the total principal amount of the depository's outstanding
    - 9 loans to Indiana residents; plus
    - 10 (B) the total value of the depository's investments in Indiana
    - 11 residents;
- 12 is at least equal to the total amount of public funds of the state and  
13 political subdivisions of the state that are on deposit in the  
14 depository.

15 The board may rely on a certificate furnished under this subsection in  
16 determining whether to deposit public funds or reinvest public funds  
17 in the institution.

18 SECTION 3. IC 5-13-11-3 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The contract  
20 may provide for the depository to assess a service charge for its  
21 management of the investment cash management system. The service  
22 charge may be paid:

- 23 (1) by direct charge to the deposit or other account; or
- 24 (2) ~~in any other a manner mutually agreed upon by the investing~~  
25 ~~officer and the depository. that subtracts the service charge~~  
26 **from interest earned on the funds in the deposit or other**  
27 **account.**

28 SECTION 4. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 205, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 205 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred Senate Bill 205, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-13-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Any investing officer of a political subdivision that makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all customers to pay the charge for providing that service. However, the service charge imposed must be considered in the computation of the interest rate for determining which depositories are entitled to investments as prescribed by sections 4 and 5 of this chapter. If the total service charge cannot be computed before the investment, the investing officer shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid:

- (1) by direct charge to the deposit or other account; or
- (2) in any other a manner mutually agreed upon by the investing officer and the depository: **that subtracts the service charge from interest earned on the funds in the deposit or other account."**

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 3. IC 5-13-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The contract may provide for the depository to assess a service charge for its management of the investment cash management system. The service

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charge may be paid:

- (1) by direct charge to the deposit or other account; or
- (2) in ~~any other a manner mutually agreed upon by the investing officer and the depository:~~ **that subtracts the service charge from interest earned on the funds in the deposit or other account."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 205 as printed February 1, 2011.)

BURTON, Chair

Committee Vote: yeas 7, nays 0.

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