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.

HOUSE ENROLLED ACT No. 1297

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

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

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.**

SECTION 2. IC 5-13-9.5-1, AS AMENDED BY P.L.115-2010, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A financial institution may at any time file an application to become a depository and receive public funds of

the state on deposit. Except as provided in IC 5-13-8-1 and IC 5-13-8-7, designation of a depository to receive public funds of the state qualifies a depository to receive public funds of a political subdivision. Applications for the state board of finance must be filed with the treasurer of state. The treasurer shall submit each application to the board.

(b) An application must:

(1) be made in writing on forms prescribed under section 8 of this chapter;

(2) contain terms and conditions as required and authorized by this chapter; and

(3) offer to:

(A) receive public funds of the state on deposit; and

(B) provide the security required by IC 5-13-13-7 for the safekeeping and prompt payment of the deposited funds.

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

(1) **The institution** fails to maintain a capital ratio in excess of the minimum required by the governmental supervisory body of the institution. ~~or~~ **However, the requirement set forth in this subdivision does not apply if the institution has fully collateralized the institution's public funds on deposit by pledging and delivering acceptable collateral to the board for depositories, or to the board's agent, in accordance with IC 5-13-13 and with any applicable rules of the board.**

(2) **The institution** has been found by the department of financial institutions under IC 28-1-2-40, or the financial institution's primary federal regulator, to not be in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009 as it applies to Indiana borrowers.

If the financial institution is already a depository, the institution may continue to hold the public funds until maturity to avoid the imposition of a penalty upon the depositor, although the financial institution may not accept the public funds for reinvestment and may not accept additional public funds. **If necessary,** a determination of the ratio described in ~~this subsection~~ **subdivision (1)** must be based on the institution's most recent periodic statement of condition filed with the institution's governmental supervisory body under the regulatory accounting principles as prescribed by the supervisory body.

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

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satisfies:

(1) the requirements of subsection (c); and

(2) the requirement in section 6(b) of this chapter that the sum of:

(A) the total principal amount of the depository's outstanding loans to Indiana residents; plus

(B) the total value of the depository's investments in Indiana residents;

is at least equal to the total amount of public funds of the state and political subdivisions of the state that are on deposit in the depository.

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

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 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.**

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

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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