

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 945 (McCarty) – As Introduced February 20, 2019

**SUBJECT:** Local government: financial affairs: surplus funds.

**SUMMARY:** Increases the amount that local agencies can invest surplus funds in certain deposits. Specifically, **this bill:**

- 1) Deletes the January 1, 2021, sunset date in existing law which allows a local agency to invest up to 30% of its surplus funds in deposits other than certificates of deposits (CDs) at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity to assist in the placement of deposits.
- 2) Increases the amount a local agency can invest its surplus funds in these deposits from 30% to 50%.

**EXISTING LAW:**

- 1) Authorizes a local agency, until January 1, 2021, to invest a portion of its surplus funds in deposits at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of non-CD deposits, provided that the purchases of deposits, in total, do not exceed 30% of the agency's funds.
- 2) Provides that the following conditions apply for a local agency to invest its surplus funds in deposits:
  - a) The local agency shall choose a nationally or state chartered commercial bank, savings bank, savings and loan association, or credit union in California to invest the funds, which shall be known as the "selected" depository institution;
  - b) The selected depository institution may use a private sector entity to help place local agency deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States and within the network used by the private sector entity for this purpose;
  - c) Any private sector entity used by a selected depository institution to help place its local agency deposits shall maintain policies and procedures that require the following:
    - i) The full amount of each deposit placed, including interest, shall at all times be insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA); and,
    - ii) Every depository institution where funds are placed shall be capitalized at a sufficient level to receive deposits pursuant to FDIC or NCUA.
  - d) The selected depository institution shall serve as a custodian for each deposit; and,

- e) On the same date the local agency's funds are deposited, the selected depository institution shall receive an amount of insured deposits from other financial institutions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution for investment.

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **Investments.** Since 1913, state law has authorized local officials to invest a portion of local governments' temporarily idle funds in a variety of financial instruments. Originally, state law limited the instruments to government bonds, but over time the laws governing local agency investments have been amended to keep pace with changing investment opportunities and current market offerings. California law allows local officials to deposit money in state or national banks, savings associations, federal associations, credit unions, or federally insured industrial loan companies in the State of California. These public deposits, which include funds placed into certificates of deposit (CDs), are subject to restrictions, including a requirement that deposits must be insured by the FDIC or, to the extent not insured, collateralized with certain types of securities in specified amounts. FDIC insurance usually covers only \$250,000 per depositor per institution. As a result, to secure large public deposits, depository institutions must hold significant amounts of collateral.

In 2006, the Legislature authorized local agencies to invest up to 30% of their surplus funds in CDs issued through a private sector deposit placement service [AB 2011 (Vargas), Chapter 459, Statutes of 2006]. Subsequent legislation deleted a sunset date from the statutes authorizing local agencies to invest in CDs using a deposit placement service [(SB 1344 (Kehoe), Chapter 112, Statutes of 2010)]. In 2013, the Legislature expanded local governments' statutory authority to invest surplus funds through a deposit placement service to allow surplus funds to be placed not just in CDs but also in other types of deposits [AB 279 (Dickinson), Chapter 279, Statutes of 2013], and the sunset date on this authority was extended in 2015 to January 1, 2021 [AB 283 (Debabneh), Chapter 181, Statutes of 2015].

- 2) **Bill Summary and Author's Statement.** This bill increases the cap on the amount of surplus fund local agencies can invest in certain deposits. This bill also removes the January 1, 2021, sunset date on the ability to make these types of deposits. This bill is sponsored by the California Banker's Association.

According to the author, "AB 945 will provide for greater opportunities for investments in our communities by allowing, but not requiring, local agencies to invest more of their surplus funds with local banks and credit unions. Those financial institutions will then have more capital to use for small business loans and other financial instruments, which will in turn provide a multiplier-effect of economic growth in our communities."

- 3) **Arguments in Support.** Supporters argue that, "Typically, depository institutions that use reciprocal deposits as a means to collateralize against local agency deposits are community banks operating within the geographical region of the local agency. Unfortunately, the current law percentage limitation prevents banks and local agencies from using reciprocal deposits beyond 30% of surplus funds. The law's inflexibility limits how local agencies and

banks work together in managing local agency funds and the manner in which they serve their communities. Measure AB 945 increases the statutory cap while maintaining a local agency's discretion in securing collateral.”

- 4) **Arguments in Opposition.** Opponents argue that, “AB 945 seeks to increase the amount of treasury pool dollars that can be deposited into a single investment. Ordinarily, the minimum amount of time those funds are held in a certificate of deposit is 180 days. That’s not particularly liquid. In cases where a local agency needs their funds, but they are otherwise constrained, the county treasury provides ‘dry period financing’ which is a burden on other pool participants and should not be considered a regular method to manage treasury demand when large percentages of county pool funds are on deposit with a single instrument for a long period of time. Increasing the authority to invest 50% of the treasury pool into one type of deposit would create new and unfair pressures on pool participants, to the extent a single participant’s fund are needed but unavailable. For a county treasurer to knowingly constrain the pool in that manner is inconsistent with other sections of the law that require liquidity.”
- 5) **Double-referral.** This bill is double-referred to the Banking and Finance Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Banker’s Association [SPONSOR]  
Association of California Water Agencies  
California Community Banking Network  
California Credit Union League

##### **Opposition**

California Association of Treasurers and Tax Collectors (unless amended)

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