

LEGISLATIVE BILL 440

Approved by the Governor April 6, 1987

Introduced by L. Johnson, 15; Morehead, 30; Hartnett, 45; Remmers, 1; Peterson, 21; Rupp, 22; Weihing, 48; Conway, 17; Moore, 24

AN ACT relating to public funds; to amend sections 14-563, 15-845 to 15-848, 16-715, 17-720, 77-2328, 77-2329, and 77-2363, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to depositories of public funds; to require security as prescribed; to provide for purchases of certificates of deposit and for time deposits by city treasurers as prescribed; to provide for certain causes of action; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 14-563, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

14-563. Funds Notwithstanding any provision of a home rule charter, funds of the city available for such purpose may be invested in securities of the United States, the State of Nebraska, metropolitan city, county in which such metropolitan city is located, or school district of said such city, or in the securities of municipally owned and operated public utility property and plants of said such city, or in the same manner as funds of the State of Nebraska are invested, except that the city treasurer may purchase certificates of deposit from and make time deposits in banks selected as depositories of city funds.

Sec. 2. That section 15-845, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-845. The city treasurer of a city of the primary class shall deposit, and at all times keep on deposit, for safekeeping, in the state or national banks or in some of them doing business in said such city of approved and responsible standing, all money collected, received, or held by him or her as such city treasurer. Any such bank located in the city may apply for the privilege of keeping such money, or any part thereof,

upon the following conditions: (1) All such deposits shall be subject to payment when demanded by the city treasurer, ~~on his check~~; and (2) such deposits shall be subject to all regulations imposed by law or adopted by the city for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank shall also be serving as mayor, as a member of the city council, or as any other officer of such municipality, shall not disqualify such bank from acting as a depository for such municipal funds.

Sec. 3. That section 15-846, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-846. For the security of the fund so deposited, as provided in section 15-845, the city treasurer shall require each depository bank to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the city and be approved by the mayor. Such bond shall be conditioned that such a depository shall, at the end of every quarter, render to the treasurer a statement in duplicate, showing the several daily balances, the amount of money of the city held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall pay ~~said~~ such deposit and the accretion when demanded by the city treasurer ~~on his check~~ at any time, ~~and~~ generally do and perform whatever may be required by the ~~provisions~~ provisions of sections 15-845 to 15-847, and faithfully discharge the trust reposed in such depository. Such bond shall be as nearly as practicable in the form provided in section 77-2304. ~~No~~ ; PROVIDED, ~~that no~~ person in any way connected with any depository bank, as officer or stockholder, shall be accepted as a surety on any bond given by the bank of which he ~~or she~~ is an officer or stockholder. Such bond shall be deposited with the city clerk.

Sec. 4. That section 15-847, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-847. In lieu of the bond required by section 15-846, any bank making application to become a depository may deposit or pledge as security with the city treasurer, United States government bonds, bonds of the State of Nebraska, or bonds of any state whose bonds are purchased by the Board of Educational Lands and Funds of this state for investment of the Permanent School Fund, warrants of the State of Nebraska, county bonds, municipal bonds, or school district bonds of any

county, city, village, or school district in the State of Nebraska issued under the direction of and with the approval of the Auditor of Public Accounts, bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration, or warrants of the county or any city, village, or school district in the county. ~~The ;~~ ~~PROVIDED, that the penal sum of said such bond or the sum of said such pledge of assets may be reduced in the amount of said such deposit insured by the Federal Deposit Insurance Corporation. The depository bank furnishing depositing or pledging securities above described shall have the right to substitute other approved securities as provided in this section in lieu of securities already pledged if it so desires at any time. The depository bank may at its option deposit or make the pledge of securities authorized in this section in the manner provided in section 77-2328.~~

Sec. 5. That section 15-848, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-848. The city treasurer shall not have on deposit in any bank at any time more than the maximum amount of the bond given by such bank if the bank gives a surety bond, nor in any bank giving a personal bond, more than one half of the amount of the bond of such bank. ~~The ; and the amount so on deposit at any time with any such bank shall not in either case exceed the paid-up capital stock and surplus of such bank, or more than ninety per cent of the par value of the securities pledged or furnished by said such bank when in cases where the bank pledges or deposits approved securities in lieu of a bond. The city treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond shall have been duly approved by the mayor as provided by section 15-846; or which has, in lieu of a surety bond, pledged or deposited approved securities as provided by section 15-847.~~

Sec. 6. The city treasurer may purchase certificates of deposit from and make time deposits in banks selected as depositories of city funds pursuant to sections 15-846 to 15-848. The certificates of deposit purchased and time deposits made shall bear interest and shall be secured as prescribed in sections 15-846 to 15-848. The penal sum of such bond or the sum of such pledge of assets shall be reduced in the amount of the

time deposit or certificate of deposit insured by the Federal Deposit Insurance Corporation.

Sec. 7. That section 16-715, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-715. In lieu of the bond required by section 16-714, any bank making application to become a depository may deposit or pledge as security with the city clerk (1) United States government bonds, (2) United States government guaranteed bonds or notes, (3) bonds of any state or municipal subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (1), (2), or (7) of this section, (4) bonds of the State of Nebraska or of any state whose bonds are purchased by the state investment officer of this state for investment of the Permanent School Fund, (5) warrants of the State of Nebraska, (6) county bonds, municipal bonds, or school district bonds of any county, city, village, or school district in the State of Nebraska issued under the direction of and with the approval of the Auditor of Public Accounts, (7) bonds or notes of United States governmental agencies including bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration, or (8) warrants of the county or any city, village, or school district in the county. The ~~7~~ ~~PROVIDED,~~ ~~that~~ the penal sum of ~~said such~~ bond or the sum of ~~said such~~ pledge of assets shall be of the value equal to or greater than the amount of the deposit in excess of that portion of ~~said such~~ deposit insured by the Federal Deposit Insurance Corporation. The depository bank ~~furnishing depositing or pledging~~ securities above described shall have the right to substitute other approved securities ~~herein~~ provided for in this section in lieu of securities already pledged if it so desires at any time. The depository bank may at its option deposit or make the pledge of securities authorized in this section in the manner as provided in section 77-2328.

Sec. 8. That section 17-720, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-720. The city or village treasurer of cities of the second class and villages may, upon resolution of the mayor and council or board of trustees authorizing the same, purchase certificates of deposit

from and make time deposits in any state or national bank in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by such Federal Deposit Insurance Corporation, and the amount of the excess deposit shall be secured by a bond or a pledge of assets in the same manner as is provided for cities of the first class in sections 16-714 and 16-715 to 16-716 and section 77-2328.

Sec. 9. That section 77-2328, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2328. Any bank pledging securities to secure deposits of public money may, with the approval of the official governing body of the political subdivision or political unit, deposit such securities in the Federal Reserve Bank or some bank or trust company approved by such governing body and take for the same a trust receipt in the form of and executed in the manner approved by the treasurer of the political subdivision or political unit, and when so approved, such bank may deposit such trust receipt in lieu of the securities evidenced thereby.

Sec. 10. That section 77-2329, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2329. No treasurer shall be liable on his or her bond for money on deposit in a bank under and by direction of the proper legal authority if the bank has given bond, in accordance with section 15-846, 16-714, 17-720, or 77-2318, or pledges pledged securities, as provided in section 15-847, 16-715, 17-720, 77-2318.01, or 77-2328.

Sec. 11. That section 77-2363, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2363. In all cases in which public money or funds belonging to the United States, an agency of the United States, the State of Nebraska, or any county, school district, educational service unit, technical community college, municipal university in cities of the metropolitan class, city, or municipality in this state have been deposited or loaned to any person or persons, corporation, bank, partnership, or other firm or association of persons, it shall be lawful for the officer or officers making such deposit or loan, or his, her, or their successors in office, to maintain an action or actions for the recovery of such money so

deposited or loaned. All contracts made for the security or payment of any such money or public funds shall be held to be good and lawful contracts binding on all parties thereto.

Sec. 12. That original sections 14-563, 15-845 to 15-848, 16-715, 17-720, 77-2328, 77-2329, and 77-2363, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 13. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.