

40A:5-14

LEGISLATIVE HISTORY CHECKLIST

(Local government monies--require deposit in interest bearing public depository)

NJSA 40A:5-14

LAWS 1981

CHAPTER 196

Bill No. S1319

Sponsor(s) J. Russo

Date Introduced June 12, 1980

Committee: Assembly Municipal Gov't

Senate County and Municipal Gov't

Amended during passage according to Governor's recommendations Yes ~~NO~~ Amendments denoted by asterisks

Date of Passage: Assembly March 5, 1981 Re-enacted 6-15-81
Senate Jan. 22, 1981 Re-enacted 6-8-81

Date of approval July 9, 1981

Following statements are attached if available:

Sponsor statement Yes ~~NO~~
Committee Statement: Assembly Yes No
Senate Yes ~~NO~~
Fiscal Note Yes No
Veto Message Yes ~~NO~~
Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No
Hearings ~~Yes~~ No

For Federal Regulations referred to in statements 12 CFR 217

Also attached: Department of Community Affairs support of legislation (letter)

6/22/81

7-9-81

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1319

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1980

By Senator J. RUSSO

Referred to Committee on County and Municipal Government

AN ACT concerning the "Local Fiscal Affairs Law," and amending
N. J. S. 40A:5-14.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. N. J. S. 40A:5-14 is amended to read as follows:

2 40A:5-14. Each local unit shall designate as a depository for its
3 moneys a public depository as defined in section 1 of P. L. 1970,
4 c. 236 (C. 17:9-41), or the State of New Jersey Cash Management
5 Fund established pursuant to section 1 of P. L. 1977, c. 281 (C.
6 52:18A-90.4), or any combination thereof. Except as otherwise
7 provided in this section, any public depository so designated pur-
8 suant to this section shall be one which will allow *, to the extent
9 permitted by State and Federal law,* interest on *[all]* balances
10 of moneys deposited [therein] therewith*[, and]* *. The Director
11 of the Division of Local Government Services shall, by rule or
12 regulation, require that* all moneys deposited with such deposi-
13 tory[, other than minimum amounts deposited in checking ac-
14 counts for cash disbursement purposes, shall be deposited in
15 interest bearing accounts or may, whenever more compatible with
16 the cash flow requirements of the local unit, be deposited therewith
17 in time accounts with interest subject to withdrawal upon notice]*,
18 in such accounts as the Director may require,* shall **[accure]**
19 **accrue** interest *[from a time 72 hours]* *from a specific time*
20 after deposit, or from such lesser time as the local unit and the
21 depository may agree. *These rules and regulations shall be de-
22 signed so as to assure to the greatest extent practicable the invest-
23 ment of local funds in interest bearing accounts and may be adjusted
24 from time to time in order to reflect changes in Federal or State law
25 or regulations. The director may provide for variance from the
26 rules and regulations for the handling of small sums of money as
27 he shall define.* Whenever any such public depository shall agree
28 to perform for the local unit [certain] specific services [of a nature

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

27 as shall be necessary to compensate the depository for such services.
 28 A list of the services to be so performed and a cost estimate of the
 29 value of such services shall be submitted to the division for certifica-
 30 tion purposes] *agree to maintain in a separate noninterest bearing*
 31 *account with the depository a predetermined amount sufficient to*
 32 *compensate for the agreed upon services. The agreement shall be*
 33 *in writing and shall become a part of the annual audit conducted*
 34 *pursuant to N. J. S. 40A:5-4.*

35 The official charged with the custody of such moneys shall deposit
 36 them in the depository or depositories so designated and shall there-
 37 after be relieved of any liability or loss of such moneys due to the
 38 insolvency or closing of the depository or depositories.

1 2. This act shall take effect January 1, 1981.

STATEMENT

P. L. 1979, c. 315 was enacted January 18, 1980, amending N. J. S. 40A:5-14 of the "Local Fiscal Affairs Law," to require local units to deposit their idle funds in interest bearing accounts, except in those circumstances where the depository agrees to perform services for the local unit sufficient to compensate the local unit for interest not received. That law is scheduled by its terms to take effect January 1, 1981.

This bill amends that law pursuant to recommendations of the Division of Local Government Services to better effectuate its purposes and to take into account changes in Federal regulation of banking operations which have occurred since P. L. 1979, c. 315 passed the Legislature. This bill would require that all moneys deposited by a local unit in its public depository shall earn interest from a time 72 hours after deposit, or from such lesser time as the local unit and depository may agree. The bill removes the provision of P. L. 1979, c. 315 that amounts deposited in checking accounts are exempted from the interest-earning requirement. This change reflects the recent change in Federal regulations permitting banks to give interest on checking accounts. With this change in Federal regulations, it is appropriate that the interest bearing requirement be based upon the period of time the funds are deposited with the bank, rather than upon the type of account.

The bill also amends the provision of P. L. 1979, c. 315 permitting funds to be deposited in non-interest bearing accounts whenever the bank agrees to provide services to the local unit. The major change here is to use the local annual audit procedure of N. J. S. 40A:5-4, rather than a State certification procedure, for the enforcement of the terms of such agreements.

S1319(1980)

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1319

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 1980

Senate Bill No. 1319 would amend P. L. 1979, c. 315, which was enacted January 18, 1980. That law would require local units to deposit their idle funds in interest bearing accounts, except in those circumstances where the depository agrees to perform services for the local unit sufficient to compensate the local unit for interest not received. That law is scheduled by its terms to take effect January 1, 1981. This legislation would remedy certain administrative difficulties relating to the implementation of that law prior to its taking effect.

As amended by the Senate committee, one major change made to that law would be in the provision permitting local units to deposit funds in noninterest bearing accounts whenever the bank agrees to provide services to the local unit. This bill would substitute the use of the local annual audit procedure of N. J. S. 40A:5-4, rather than a State certification procedure, for the enforcement of the terms of such agreements. The committee amendments assure that the existing investigatory powers of the Director of Local Government Services would apply to these agreements.

Another major change to P. L. 1979, c. 315 would be to provide the Director of Local Government Services with sufficient regulatory flexibility to specify which local accounts are to be deposited on interest bearing terms and from what time following deposit interest shall accrue. The local unit would be permitted to agree with its depository to a lesser time than that generally required by the director.

The bill as amended would direct the Division of Local Government Services to assure to the greatest extent practicable the investment of local funds in interest bearing accounts, and to adjust requirements therefor from time to time to reflect changes in State or Federal law or regulations. This regulatory flexibility is necessary since, contrary to the introductory statement on the bill, Federal regulations do not permit banks to allow interest on checking accounts of counties and

municipalities (NOW accounts). The committee understands that the Federal Reserve System currently authorizes NOW accounts only for individuals and certain nonprofit religious, philanthropic, charitable, educational and fraternal entities, including professional associations, labor unions, social clubs, recreational clubs, and school districts, among others. The committee does not see why State and local governments are specifically excluded from this authorization, but obviously cannot alter that ruling here. The committee believes that the statutory direction given to the division in this bill will permit the director to require the use of NOW accounts for checking purposes where feasible, if and when Federal requirements change in this regard.

The Senate committee amendments provide for an oversight function over rules and regulations adopted pursuant to the act to be exercised by this committee and the Assembly Revenue, Finance and Appropriations Committee. The committee strongly believes that this oversight is necessary, given that the bill as amended furnishes the Director of Local Government Services with a high degree of discretion and flexibility in implementing the intent of the act. The oversight provisions require that rules and regulations to effectuate the act be filed with the two committees not less than 60 days following enactment (approval by the Governor). The act would not take effect until 60 days following that filing. This would furnish the committees with sufficient time to hold hearings on the proposed regulations prior to their taking effect, and to recommend to the Legislature whatever corrective actions the committees find necessary, consistent with the legislative and investigatory powers of the Legislature.

Notwithstanding the effective date of the bill as discussed above, it shall supercede all provisions of P. L. 1979, c. 315 immediately upon enactment, including the effective date of that law.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

May 4, 1981

SENATE BILL NO. 1319 (OCR)

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I am returning Senate Bill No. 1319 (OCR) with my objections for reconsideration.

This bill amends existing law to permit more flexibility in the requirement that funds of local units be deposited in interest bearing accounts. While I support the substantive provisions in the bill, I am concerned with the oversight provision in section 2 and operation of the effective date in section 3.

Since the date this bill was introduced, laws and regulations have been implemented in New Jersey which require that regulations be filed with the Legislature. The provisions in this bill are inconsistent with the existing law. I find no rational for imposing a different procedure on regulations pursuant to this bill and other regulations. Hence, I recommend that those provisions be eliminated from the bill. I also recommend that the language on the effective date of the act be reworded to be consistent with the above change and that the bill provide that the act is effective immediately upon enactment.

Accordingly, I am returning Senate Bill No. 1319 (OCR) for reconsideration and recommend that it be amended as follows:

Page 2, Section 2: Delete entire section.

Page 2, Section 3: Delete entire section and insert "2. This act shall take effect immediately."

Respectfully,

/s/ Brendan Byrne

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

February 2, 1981

The Honorable Vincent Ozzie Pellocchia
Assemblyman, District 35
100 Hamilton Plaza
Paterson, New Jersey 07505

RE: Senate Bill 1319 OCR (1980)

Dear Assemblyman Pellocchia:

The Department of Community Affairs strongly supports Senate Bill 1319, which provides for designation by local units of government of a depository for their moneys. It sets forth the requirements that a public depository must meet in order to serve as a depository for local government moneys.

N.J.S.A. 40A:5-14 was recently amended by P. L. 1979, c. 315, to require that a public depository, in order to receive designation as a depository for local government moneys, must allow interest on all balances of moneys, except minimum amounts deposited in checking accounts for cash disbursement purposes, unless funds are deposited in time accounts. Furthermore, P. L. 1979, c. 315, required the Director of the Division of Local Government Services to grant prior permission to local units wishing to enter into agreements with public depositories for the performance of certain services in lieu of interest on amounts deposited. The Director was also charged with promulgating rules and regulations to implement the provisions of P. L. 1979, c. 315.

Based on meetings with local officials, representatives of the banking industry, and other parties, the Division of Local Government Services concluded that there were a large number of practical difficulties in implementing P. L. 1979, c. 315. The requirements of

February 2, 1981

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the law were too rigid to be compatible with related law and current practices. The Division was unable to promulgate satisfactory rules and regulations given the language of the law, and it does not have the capability to fulfill the enforcement duties delegated to it.

Senate Bill 1319 amends N.J.S.A. 40A:5-14 to provide the flexibility necessary for local units of government and public depositories to meet the basic intent of P. L. 1979, c. 315, i.e. to ensure to the greatest extent possible that local funds are deposited in interest-bearing accounts or are otherwise deposited in return for specific services. The bill will also alleviate many of the administrative burdens imposed on the Division of Local Government Services by P. L. 1979, c. 315, that the Division cannot now bear given its fiscal and staff resources.

I, therefore, respectfully urge you and your Committee to promptly consider Senate Bill 1319 and to report this bill favorably.

If there are any questions, please do not hesitate to contact Ms. Melanie Willoughby, our Legislative Liaison, at (609) 292-7561.

Sincerely yours,

Joseph A. LaFante
Commissioner

cc: The Honorable Herman T. Costello
The Honorable Eugene H. Thompson
The Honorable John A. Girgenti
The Honorable Arthur R. Albohn
The Honorable W. Cary Edwards
The Honorable Elliott F. Smith
The Honorable John P. Russo

bcc: Amy Piro, Assistant Counsel to the Governor
James Wunsch, Committee Aide
Barry Skokowski, Director
Melanie L. Willoughby, Legislative Liaison ✓

JAL:FH:bam