

40A:5-14; 40A:5-14.1

LEGISLATIVE HISTORY CHECKLIST

(Municipal and county funds--require deposit in interest bearing accounts--exceptions)

HJSA 40A:5-14; 40A:5-14.1

LAWS OF 1979

CHAPTER 315

Bill No. S60

Sponsor(s) J. Russo

Date Introduced Pre-filed

Committee: Assembly County Government

Senate County and Municipal Government

Amended during passage according to Governor's recommendations Yes

xxx Amendments during passage denoted by asterisks Re-enacted Jan. 7, 1980

Date of Passage: Assembly June 12, 1978

Senate April 24, 1978

Re-enacted Jan. 3, 1980

Date of approval Jan. 18, 1980

Following statements are attached if available:

Sponsor statement	Yes	xx (Below)
Committee Statement: Assembly	xx	No
Senate	Yes	xx
Fiscal Note	xx	No
Veto message	Yes	xx
Message on signing	xx	No

Following were printed:

Reports	xx	No
Hearings	xx	No

Sponsor's statement:

This bill requires municipalities and counties to deposit their funds in interest bearing accounts except in those cases where such deposits are not compatible with working capital requirements or with public safety.

9/1/78

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[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 60

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senator J. RUSSO

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. ***[**The governing body shall, by resolution passed by
3 a majority vote of the full membership thereof, designate as a**]***
4 *Each local unit shall designate as a* depository for its moneys a
5 ***[**bank or trust company having its place of business in this State
6 and organized under the laws of the United States or of this State
7 and which will allow interest on all balances of its deposits**]***
8 *public depository as defined in section 1 of P. L. 1970, c. 236
9 (C. 17:9-41),* or the State of New Jersey Cash Management Fund
10 established pursuant to section 1 of **[**this amendatory and supple-
11 mentary act**]** P. L. 1977, c. 281 (C. 52:18A-90.4), or any combina-
12 tion thereof. ***[**All interest and earnings so earned shall be credited
13 to the local unit.**]***

14 ***[**At any time when in the judgment of the governing body, it is
15 not compatible with the working capital requirements of the local
16 unit or with public safety to deposit all or any portion of such
17 moneys upon interest bearing terms, it may direct the deposit
18 thereof without interest or in time accounts with interest subject to
19 withdrawal upon notice.**]*** *Except as otherwise provided in this
20 section, any public depository so designated pursuant to this section
21 shall be one which will allow interest on all balances of moneys
22 deposited therein, and all moneys deposited with such depository,
23 other than minimum amounts deposited in checking accounts for
24 cash disbursement purposes, shall be deposited in interest bearing
25 accounts or may, whenever more compatible with the cash flow

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

26 requirements of the local unit, be deposited therewith in time ac-
 27 counts with interest subject to withdrawal upon notice. Whenever
 28 any such public depository shall agree to perform for the local unit
 29 certain services of a nature or amount sufficient to compensate for
 30 interest which would otherwise be received on such balances de-
 31 posited therein, the local unit may, upon certification by the Divi-
 32 sion of Local Government Services that the nature or amount of
 33 such services would be so sufficient, designate such public deposi-
 34 tory as a depository for its moneys, and may deposit such portion
 35 of its moneys with such depository in other than interest bearing
 36 accounts as shall be necessary to compensate the depository for
 37 such services. A list of the services to be so performed and a cost
 38 estimate of the value of such services shall be submitted to the
 39 division for certification purposes.*

40 The official charged with the custody of such moneys shall deposit
 41 them in the depository or depositories ***[and upon such terms as]***
 42 *so* designated ***[by the governing body]*** and shall thereafter
 43 be relieved of any liability or loss of such moneys due to the in-
 44 solvency or closing of the depository or depositories.

1 **2. (New section) The Division of Local Government Services
 2 shall adopt rules and regulations to implement this act. The di-
 3 vision may provide for a grace period of time to permit local
 4 administrators flexibility in transferring funds between accounts
 5 and for variances from the rules and regulations for the handling
 6 of small amounts of money as defined by the division.**

1 ****[2.]**** **3.** This act shall take effect ***[immediately]***
 2 *January 1 next following enactment*.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
SENATE, No. 60
with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 2, 1978

As introduced by the sponsor, Senate No. 60 would require local governments to deposit their funds in interest bearing accounts, except in those cases where such deposits are not compatible with working capital requirements or with public safety.

On October 30, 1975, the *Presentment In Re Inquiry of the 24th State Grand Jury* found that, while many municipalities had progressive investment programs for their idle funds, many were not investing efficiently or had failed to establish a meaningful program for use of surplus funds. The State Grand Jury stated its belief that the overall loss of money due to failure to make effective use and investment of idle funds was substantial. The State Grand Jury noted that no legal obligation on the part of municipal officials to invest such funds currently exists. The State Grand Jury, therefore, recommended that: "There should be established by legislative mandate an affirmative obligation to utilize idle funds to the best interest of the public."

Since the State Grand Jury findings, the Legislature has established the New Jersey Cash Management Fund (P. L. 1977, c. 281) which permits local governments the option of investing their idle funds with a central State investment fund, and receiving interest on even limited period investments.

Senate No. 60 would address those instances where the local government does not choose to utilize the New Jersey Cash Management Fund.

The committee amendments would provide for an meaningful requirement that local governments utilize their idle funds deposited in banks and savings and loans for interest earning purposes, but would provide local governments with the necessary flexibility to meet their individual cash flow requirements. The committee amendments would do so by:

1. Requiring that any bank or trust company designated as a depository for local funds shall be one which will allow interest on all balances deposited therein;
 2. Requiring that all moneys deposited therein shall be deposited in
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interest bearing accounts, or, whenever more compatible with the cash flow requirements of the local unit, in time accounts with interest subject to withdrawal upon notice;

3. Excepting from such requirement minimum amounts deposited in checking accounts for cash disbursement purposes;
4. Providing for situations in which the depository agrees to perform certain services for the local unit in return for the deposit of balances in other than interest bearing accounts; and,
5. Requiring that such service agreements be certified by the Division of Local Government Services that the nature or amount of such services would be sufficient to compensate the local government for the amount of interest which otherwise would have been earned on such balances.

The committee understands that the types of services which depositories often agree to perform for local units in return for deposit of balances on other than interest bearing terms include: free checking; check processing; bonding assistance; payroll service; wire transfers; reconciliations; and, financial advice.

The committee also amended the bill to make it effective January 1 following enactment in order to allow ample lead-time for local governments and the Division of Local Government Services to implement the act.

In addition, the committee determined that the designation of depositories by resolution of the governing body of the local unit, may in some instances be inappropriate to the form of government of the local unit, specifically to counties operating under the "Optional County Charter Law." The amendments would delete the specific procedure of designation by resolution of the governing body in order to allow each local unit to so designate a depository according to the procedure most appropriate to its individual form of government.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

December 17, 1979

SENATE BILL NO. 60 (OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 60 (OCR) with my objections for reconsideration.

This bill would require all local units of government that do not deposit their funds in the New Jersey Cash Management Fund to invest their money in interest-earning accounts in banks and savings and loan associations. Specifically, the legislation would require that funds must be placed in a public depository which allows interest on all balances deposited and that all funds other than minimum amounts in checking accounts for cash disbursement purposes must be in interest bearing accounts, or when more compatible with cash flow requirements, in time accounts with interest. Local governments could agree with banks to deposit funds in non-interest bearing accounts in exchange for bank services such as free checking, check processing, bonding assistance and payroll service. Such service arrangements would have to be approved by the Division of Local Government Services to assure that the nature and amount of such service would be sufficient to compensate the local governments for the amount of interest which otherwise would have been earned.

I agree with the concept of the legislation to foster good financial practices by local officials. However, I am concerned that local officials would not have administrative sufficient flexibility to carry out their obligations under this act.

Accordingly, I respectfully recommend the following amendments to Senate Bill No. 60 (OCR):

Page 2, New Section: "2. The Division of Local Government Services shall adopt rules and regulations to implement this act. The Division may provide for a grace period of time to permit local administrators flexibility in transferring funds between accounts and for variances from the rules and regulations for the handling of small amounts of money as defined by the Division."

Page 2, Section 2, line 1: Delete "2" insert "3".

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. H. s

CHIEF OF STAFF DEPT. OF TREASURY