

1975 Assembly Bill 417

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CHAPTER 180, Laws of 1975

AN ACT to renumber and amend 62.12 (7) (a); and to amend 14.58 (4) and (9), 25.17 (3) (dg) 3, (61) and (63), 34.01 (1), (2), (6) and (8) (a), 34.03 (1) (k), 34.05 (1), 34.08 (2), 34.09, 34.095, 34.10, 60.29 (25), 66.04 (2), 71.20 (4), (4m) (intro.) and (f) and (7), 71.26, 78.12 (4) (intro.) and (5), 78.13 (2), 78.49 (3), 78.50 (2), 78.84, 120.12 (7) and 219.05 (1) of the statutes, authorizing the use of savings and loan associations as public depositories.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 14.58 (4) and (9) of the statutes are amended to read:

14.58 (4) PAY ON WARRANTS SUMS AUTHORIZED BY LAW. Pay out of the treasury, on demand, upon the warrants of the department of administration and not otherwise such sums only as are authorized by law to be so paid, if there are appropriate funds therein to pay the same, except when in the judgment of the state treasurer ~~bank~~ balances in state public depository accounts are temporarily in excess of that required, the treasurer, with the concurrence of the secretary of administration, may authorize the preparation of a warrant in excess of the funds contained in the investment fund for the purpose of investment only, and, when any sum is required to be paid out of a particular fund, pay it out of such fund only; and upon each such warrant, when payment is made in currency, take the receipt indorsed on or annexed thereto, of the payee therein named or his authorized agent or assignee. The state treasurer shall accept telephone advice believed by him to be genuine from any ~~state~~ state public depository bank, as defined in s. 34.01 (2), stating that a specified amount of money has been

deposited with such ~~state~~ public depository bank for the credit of the state treasurer, and shall act upon such telephone advice as though it had been in writing.

(9) REPORT TO GOVERNOR BIENNIALY. Report to the governor, within 20 days after June 30 in each even-numbered year, a statement showing for each of the 2 preceding fiscal years the cash balance in each state fund at the beginning of the year, the aggregate amount of receipts credited and the aggregate amount of disbursements charged to each said fund during the year and the resultant cash balance in each state fund at the end of the year. This statement shall further show as of the end of each said 2 years, at par, the aggregate value of securities held for each state fund and the aggregate value of securities held in trust or deposited for safekeeping, and shall show the manner in which the total cash balance was accounted for by listing the balances on deposit in each ~~bank state~~ account in a public depository, deducting from the total of such ~~bank~~ balances the aggregate amount of checks outstanding and adding thereto the aggregate amount of cash and cash items in office.

SECTION 2. 25.17 (3) (dg) 3, (61) and (63) of the statutes are amended to read:

25.17 (3) (dg) 3. Certificates of deposit maturing within one year or less from the date of investment, issued by banks or savings and loan associations located in the United States and having capital and surplus of at least \$50,000,000.

(61) Designate public depositories for the deposit of public moneys, as defined in s. 34.01 (5), coming into the hands of the state treasurer; allocate the deposits of all public moneys coming into the hands of the state treasurer, and limit the amount of such public moneys, as determined from the state treasurer's records, which may be deposited in any public depository so designated. It shall have all the powers and duties with relation to the state treasurer and state moneys that are herein granted and imposed upon other governing boards by ch. 34, and only such banks as have been named by the investment board as working banks shall carry state deposits on which checks are drawn to conduct the daily business of the state, all of which deposits shall be payable on demand. The board may designate ~~banks~~ public depositories, as defined in s. 34.01 (2), as special depositories in which the state treasurer may make special deposits of funds, not exceeding the amount limited by the board, which are not currently needed for the conduct of the daily business of the state as determined by the board, which special deposits shall be deposited subject to such ~~bank's~~ public depository's rules and regulations relative to either savings accounts, time certificates of deposit or open time accounts, as the case may be. Public depositories heretofore designated as state depositories shall continue as such until further action by the board.

(63) Fix the rates of interest to be paid by public depositories on active deposits and special deposits of the state treasurer. Such rates of interest shall be based upon the size and activity of public deposits and shall take into consideration the net return to ~~banks~~ public depositories on sound investments. Rates of interest fixed as provided herein shall be paid uniformly by all public depositories on all public deposits unless the payment of interest on such deposits is prohibited under any act of congress or any rule or regulation of any federal agency having supervision over such public depository, and such public deposits shall be subject to no charge other than the amount required to be paid into the state deposit fund. Any public depository which refuses, neglects or by subterfuge avoids payment of interest on public deposits in accordance with the fixed rates shall be excluded from the right to receive and hold public deposits. Inactive deposits other than special deposits of the state treasurer shall bear the same rates of interest as are paid by such public depository on time accounts.

SECTION 3. 34.01 (1), (2), (6) and (8) (a) of the statutes are amended to read:

34.01 (1) "Public deposit" ~~shall mean~~ means moneys deposited by the state or

any county, city, village, town, drainage district, power district, school district, sewer district, or any commission, committee, board or officer of any governmental subdivision of the state, or any court of this state, in any state bank, savings and trust company, mutual savings bank, savings and loan association or national bank in this state, including private funds held in trust by a public officer for persons, corporations or associations of individuals.

(2) "Public depository" ~~shall mean~~ means a savings and loan association, state bank, savings and trust company, mutual savings bank, or national bank in this state which receives or holds any public deposits.

(6) "Loss" means any loss of public moneys, which have been deposited in a designated public depository in accordance with this chapter and upon which the required payment has been made into the state deposit fund, resulting from the failure of any public depository to repay to any public depositor the full amount of its deposit because the commissioner of banking ~~or the~~ comptroller of currency, federal home loan bank board or commissioner of savings and loan has taken possession of such public depository or because such public depository has, with the consent and approval of the commissioner of banking or commissioner of savings and loan, adopted a stabilization and readjustment plan or has sold a part or all of its assets to another bank or savings and loan association which has agreed to pay a part or all of the deposit liability on a deferred payment basis or because such depository is prevented from paying out old deposits because of rules of the commissioner of banking ~~or the~~ comptroller of the currency, federal home loan bank board or commissioner of savings and loan.

(8) (a) "Inactive deposits" shall mean public deposits which have been deposited subject to the ~~bank's~~ public depository's rules and regulations relative to time accounts.

SECTION 4. 34.03 (1) (k) of the statutes is amended to read:

34.03 (1) (k) Prescribe rules and regulations fixing the requirements for qualification of banks and savings and loan associations as public depositories and fixing the maximum allowable total public deposits of banks and savings and loan associations and the terms and conditions under which public deposits may be received and held;

SECTION 5. 34.05 (1) of the statutes is amended to read:

34.05 (1) The governing board of each public depositor shall, by resolution, certified copy of which shall be filed with the commissioner of banking, designate one or more ~~banks, banking institutions, or trust companies~~ public depositories, organized and doing business under the Wisconsin or United States laws, and located in Wisconsin, ~~which have been approved by the commissioner of banking as qualified to become public depositories~~, in which the treasurer of such governing board shall deposit all public moneys coming into his hands. The public depository designated shall have been approved as qualified to become a public depository by the commissioner of banking if the depository is a bank, savings and trust company or mutual savings bank, or by the commissioner of savings and loan if the depository is a savings and loan association. A designation of a public depository by the governing board shall be a designation of such public depository for all treasurers of such governing board and for all public depositors for which each such treasurer shall act. No public depositor, through its governing board, treasurer or otherwise, may contract with a public depository for, or condition its designation of a public depository or its deposit of public moneys upon, the agreement of the public depository to invest such deposits of public moneys in any particular form of investment or in any particular geographic location.

SECTION 6. 34.08 (2) of the statutes is amended to read:

34.08 (2) Every ~~bank~~ public depository receiving or having any public funds on

deposit shall on the last day of March, June, September and December in each year pay into the state deposit fund at the ~~per cent~~ percent rate per year on the average daily balance of such deposits so deposited with it for the preceding 3 months' period as fixed by the commissioner of banking, such sum to be collected by the public depository from the depositors. As used in this section 90 days shall constitute a 3 months' or quarterly period and the average daily balance base shall be the average of such public fund deposit as of the close of business 3 days each month or a total of 9 days for each 3 months' or quarterly period as determined by the commissioner of banking on or before the last day of each quarterly period for which the report is due. The commissioner of banking shall notify all public depositories of the dates selected and ~~said~~ the public depositories shall render reports in conformity therewith on blank forms which shall be furnished by the commissioner of banking. Any public depository which refuses or neglects to make such report and remittance to the commissioner of banking within 15 days after its due date shall pay into the state deposit fund the sum of \$5 for each and every day of tardiness in excess of 15 days. If the amount required to be paid into the state deposit fund on any given public deposit is greater than the interest earned on such public deposits, then the public depository may deduct the difference from the principal of such public deposit. If the amount required to be paid into the state deposit fund on private funds held in trust by a public officer for private persons, corporations or associations of individuals is greater than the net interest received, then the public depositor may deduct the difference from the principal of such private fund. Amounts due the state deposit fund for the quarter in which a loss occurs shall be deducted before payment of such claim.

SECTION 7. 34.09 of the statutes is amended to read:

34.09 (title) Financial institutions eligible as public depositories. Every state bank, savings and loan association, savings and trust company and mutual savings bank and every national bank located in this state which files with the commissioner of banking an agreement that it will pay over to the state deposit fund the amounts required to be paid on average daily balances of public deposits under s. 34.08 (2) and complies in all respects as to public deposits with ch. 34 and which meets the qualifications required by the rules of the commissioner of banking, may be designated as a public depository and may receive and hold public deposits, subject to this chapter, in an amount not in excess of the amount specified by the commissioner of banking. The commissioner of banking or commissioner of savings and loan, upon request, shall advise any interested persons what banks and savings and loan associations have qualified to become public depositories and any such bank or savings and loan association may thereafter be designated by any governing board as a public depository. The commissioner of banking shall have the same powers and duties with regard to making and continuing public deposits in national banks and in savings and loan associations as the powers and duties exercised and performed by ~~it~~ him with regard to public deposits in state banks.

SECTION 8. 34.095 of the statutes is amended to read:

34.095 (title) Certain foreign financial institutions ineligible as public depositories. Whenever the ownership, control or power to vote a majority interest in the stock of any state or national bank or savings and loan association doing business in Wisconsin is held or in any manner exercised by any foreign corporation, association or trust, which has not filed its articles of incorporation and obtained authority to do business in this state as provided in ss. 180.801, 180.813 to 180.821 and 180.845, such bank or savings and loan association shall not be qualified to act as a public depository for any public moneys, nor as a depository for reserve funds of state banks until said sections are complied with by such foreign corporation, association or trust.

SECTION 9. 34.10 of the statutes is amended to read:

34.10 (title) Reorganization and stabilization of banks and state savings and loan associations. Whenever the commissioner of banking ~~or the~~ comptroller of the currency, federal home loan bank board or commissioner of savings and loan has taken charge of a bank ~~or savings and loan association~~ with a view of restoring ~~the~~ its solvency of any bank of which he has taken charge, pursuant to law, or with a view of stabilizing and readjusting the banking structure of any national or state banking institution or savings and loan association located in this state, ~~shall approve and has approved~~ a reorganization plan or a stabilization and readjustment agreement entered into between such bank or savings and loan association and depositors and unsecured creditors, or when a bank or savings and loan association, with the approval of the commissioner of banking ~~or~~ comptroller of currency, federal home loan bank board or commissioner of savings and loan proposes to sell its assets to another bank or savings and loan association which agrees to assume a part or all of the deposit liability of such selling bank or savings and loan association and to pay the same on a deferred payment basis, the governing board of such public depositor may, on the approval of the commissioner of banking, join in the execution of any reorganization plan, or any stabilization and readjustment agreement, or any depositor's agreement relative to a proposed sale of assets if, in its judgment and that of the commissioner of banking, such reorganization plan or stabilization and readjustment agreement or proposed sale of assets is in the best interest of all persons concerned. The joining in any such reorganization plan, or any stabilization and readjustment agreement, or any proposed sale of assets which meets the approval of the commissioner of banking shall not operate as a waiver of any rights arising under this chapter.

SECTION 10. 60.29 (25) of the statutes is amended to read:

60.29 (25) (title) PUBLIC DEPOSITORY. To designate the ~~bank or banks~~ public depository or depositories where the money belonging to the town shall be deposited. When the money is deposited in such depository in the name of the town, the treasurer and his bondsmen shall not be liable for such losses as are defined by ~~subsection (6) of section 34.01 s. 34.01 (6)~~. The interest arising therefrom shall be paid into the town treasury.

SECTION 11. 62.12 (7) (a) of the statutes is renumbered 62.12 (7) and amended to read:

62.12 (7) The council shall designate ~~a bank or banks~~ the public depository or depositories within this state with which city funds shall be deposited, and when the money is deposited in such depository in the name of the city, the treasurer and his bondsmen shall not be liable for such losses as are defined by ~~subsection (6) of section 34.01 s. 34.01 (6)~~. The interest arising therefrom shall be paid into the city treasury.

SECTION 12. 66.04 (2) of the statutes is amended to read:

66.04 (2) INVESTMENTS. Any county, city, village, town, school district, drainage district, vocational, technical and adult education district, or other governing board as defined by s. 34.01 (4) may invest any of its funds, not immediately needed, in time deposits in any bank, savings bank ~~or~~ trust company or savings and loan association which is authorized to transact business in this state, such time deposits maturing in not more than one year, or in bonds or securities issued or guaranteed as to principal and interest of the U.S. government, or of a commission, board or other instrumentality of the U.S. government, or bonds or securities of any county, city, drainage district, vocational, technical and adult education district, village, town or school district of this state, or in the case of a town, city or village in any bonds or securities issued under the authority of such municipality, whether the same create a general municipality liability or a liability of the property owners of such municipality for special improvements made therein, and may sell or hypothecate the same. Cemetery perpetual care funds, pension funds under s. 62.13 (9) or (10), or

endowment funds including gifts where the principal is to be kept intact may also be invested under ch. 881.

SECTION 13. 71.20 (4), (4m) (intro.) and (f) and (7) of the statutes are amended to read:

71.20 (4) Every employer who deducts and withholds any amount under this section shall deposit such amount on a quarterly basis, except that effective July 1, 1967, if the amount deducted and withheld in any quarter ended before or after this date exceeded \$300, the department may require by written notice to the employer, that amounts deducted and withheld on and after the date indicated on such notice shall be deposited on a monthly basis. Employers who are required to file reports and deposit withheld taxes on a monthly, quarterly, or annual basis, as the case may be, shall file such reports and deposit such taxes on or before the last day of the month next succeeding the withholding period with such ~~bank~~ public depository in Wisconsin as the investment board designates a public depository therefor under s. 25.17 (61) to the credit of the general fund. Such deposits shall be deemed collected as of the date on which they are required to be deposited by this section, and available for distribution to counties, cities, villages and towns under s. 71.14 if they are received by the state by the 5th day of the 2nd succeeding calendar month after the close of each calendar quarter. With each deposit the employer shall include a deposit report on a form to be provided by the department. The department may, when satisfied that the revenues will be adequately safeguarded, permit an employer whose withheld taxes do not exceed \$50 per month to deposit withheld taxes and reports for other than quarterly periods. The department may revoke such permission at any time. The department, if it deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of taxes, may require reports or payments of the amount of withheld taxes for other than quarterly periods. The public depository ~~bank~~ shall record on such deposit report the amount deposited and shall then forward such report to the department in such manner and at such time as the department by rule prescribes. On or before January 31 of each year every employer shall file with the department at its offices in Madison, or at such other place as the department by rule prescribes, a withholding report on a form to be provided by the department showing the amount withheld from the wages paid each employe in the previous calendar year, the amount deposited in respect to each employe on wages paid in the previous calendar year and a reconciliation of the aggregate of the amounts deposited in respect to each employe on wages paid in the previous calendar year with the aggregate of the amounts shown on the monthly and quarterly deposit reports filed in respect to such withholding. Every employer who discontinues his business prior to the end of a calendar year shall, within 30 days of such discontinuance, deposit withheld taxes not previously deposited and submit a deposit report concerning such deposit with the public depository and file a withholding report with the department covering the period from the beginning of the calendar year to the date of discontinuance. No employe shall have any right of action against his employer in regard to money deducted from his wages and deposited with the public depository ~~bank~~ in compliance or intended compliance with this section.

(4m) (intro.) Upon not less than 6 months' notice to the public depository ~~bank~~ designated under sub. (4), the secretary of revenue may direct that withheld taxes required to be reported and remitted by employers on and after a date specified be reported and remitted directly to the department of revenue. Every employer who deducts and withholds any amount under this section required to be reported and remitted on or after such date shall report and remit directly to the department. Amounts withheld shall be paid over a quarterly basis but if the amount deducted and withheld in any quarter exceeded \$300, the department may require, by written notice to the employer, that amounts deducted and withheld after the date indicated on such

notice be paid over a ~~monthly~~ monthly basis. Employers who are required to file reports and pay over withheld taxes on a monthly, quarterly or other basis, shall file such reports and pay over such taxes on or before the last day of the month next succeeding the withholding period.

(f) If the secretary of revenue elects to discontinue use of the public depository ~~bank~~, reasonable notice of the change shall be communicated to employers subject to withholding.

(7) Whenever any person is required to withhold any Wisconsin income tax from an employe, until such amount is deposited with the public depository ~~bank~~ prescribed by sub. (4) or paid over to the department as prescribed by sub. (4m), the amount so withheld shall be held to be a special fund in trust for the state. The amount of such fund may be assessed and collected from such person by the department as income taxes are assessed and collected, and such collection shall not abate any penalty imposed.

SECTION 14. 71.26 of the statutes is amended to read:

71.26 Time extension. For good cause shown upon application by an employer, the department may grant an extension of time not exceeding 30 days in which to furnish employes the written statements required by s. 71.10 (8) or to file the copies of such written statements as required by s. 71.10 (8m) or (8n), or in which to file a withholding report as required by s. 71.20 (4) or (4m), but no such extension shall extend the time for deposit with the public depository ~~bank~~ or payment to the department of amounts required to be deducted and withheld pursuant to s. 71.20.

SECTION 15. 78.12 (4) (intro.) and (5) of the statutes are amended to read:

78.12 (4) (intro.) **COMPUTATION OF TAX.** Each wholesaler at the time of making his monthly report shall compute and pay to the public depository ~~bank~~ if one has been designated pursuant to s. 78.84, but otherwise directly to the department, the full amount of the motor fuel tax for the next preceding month, which shall be computed as follows:

(5) **DEPOSITORIES OF TAXES.** The requirements of this section with respect to filing of reports and payment of taxes to the department may be waived and, in lieu thereof, the investment board, under the authority granted to it by s. 25.17 (61), upon consultation with the department, may designate a ~~Wisconsin bank~~ public depository with which such reports and taxes may be filed and deposited. Upon not less than 6 months' notice to the public depository ~~bank~~, the secretary of revenue may direct that taxes required to be reported and remitted on and after a date specified be reported and remitted directly to the department of revenue.

SECTION 16. 78.13 (2) of the statutes is amended to read:

78.13 (2) **FINAL REPORTS.** Every wholesaler shall, upon the discontinuance, sale or transfer of his business or upon the cancellation or revocation of his license except as otherwise provided in s. 78.68, make a report as required under s. 78.12 and pay all motor fuel taxes and penalties due the state. Such payment shall be to the public depository ~~bank~~ if one has been designated pursuant to s. 78.84, but otherwise to the department.

SECTION 17. 78.49 (3) of the statutes is amended to read:

78.49 (3) **COMPUTATION OF TAX.** Each special fuel licensee at the time of making his monthly report shall compute and pay to the public depository ~~bank~~ if one has been designated pursuant to s. 78.84, but otherwise directly to the department, the full amount of the special fuel tax for the next preceding month, which shall be computed as follows: the number of gallons of special fuel delivered or placed by such special fuel

licensee into the fuel supply tanks of motor vehicles shall be multiplied by seven one-hundredths and the resulting figure expressed in dollars.

SECTION 18. 78.50 (2) of the statutes is amended to read:

78.50 (2) FINAL REPORT. Every special fuel licensee shall, upon such cessation, sale or transfer of his business or upon the cancellation or revocation of his license, except as otherwise provided in s. 78.68, make a report as required in s. 78.49 and pay all special fuel taxes and penalties due the state. Such payment shall be to the public depository bank if one has been designated pursuant to s. 78.84, but otherwise to the department.

SECTION 19. 78.84 of the statutes is amended to read:

78.84 (title) Public depository. Each wholesaler shall pay motor fuel taxes and each special fuel licensee shall pay special fuel taxes directly to such ~~bank~~ public depository in this state as the investment board designates therefor under s. 25.17 (61), to the credit of the state highway fund, if such ~~bank~~ public depository, prior to such designation, agrees to supply the department of revenue with such deposit reports at such times as the department deems necessary for the proper administration of this chapter. Upon not less than 6 months' notice to a public depository bank designated under this section, the secretary of revenue may determine that the taxes required to be remitted by wholesalers and special fuel licensees on and after a date specified be remitted directly to the department of revenue.

SECTION 20. 120.12 (7) of the statutes is amended to read:

120.12 (7) DEPOSITORY. Designate one or more ~~banks~~ public depositories in which the money belonging to the school district shall be deposited. When the money is so deposited in the name of the school district, the school district treasurer and his bondsmen are not liable for any loss as defined in s. 34.01 (6). The interest on such deposits shall be paid into the school district treasury.

SECTION 21. 219.05 (1) of the statutes is amended to read:

219.05 (1) The investment by any credit unions; or the investment of funds of any state sinking fund, state school fund, firemen's relief and pension fund, police pension fund, or other pension fund; or the investment by any savings and loan association; or by any federal savings and loan association; or by any administrative department, board, commissioner or officer of the state, authorized by law to make investments of funds in the custody or under the control of such department, board, commission or officer; or by any guardian, trustee or other fiduciary; or by any school district, vocational, technical and adult education district, drainage district, village, city, county or town, in savings accounts in savings and loan associations doing business in this state ~~in an amount not exceeding the maximum insurance coverage of their accounts by the federal savings and loan insurance corporation as fixed by an act of congress;~~ or in savings accounts in any other institution within or without the state, to the extent to which such accounts now are, or may hereafter be, insured by the federal savings and loan insurance corporation, under acts of congress of the United States now in effect or which may hereafter be enacted is lawful.
