

Wisconsin Special Session Laws, 1931-32

No. 10, A.]

[Published December 10, 1931.]

CHAPTER 1.

AN ACT to repeal subsections (1) to (4) of section 14.44, section 14.46, subsection (1) of section 14.47, subsections (2) to (5) of section 59.774, and paragraphs (b) and (c) of subsection (7) of section 62.12; to create chapter 34 and section 20.055; and to amend sections 14.43 and 14.45, subsection (5) of section 40.10, section 40.23, subsections (1) and (6) of section 59.74, subsection (25) of section 60.29, and subsection (38) of section 61.34 of the statutes, relating to deposits of public funds in banks.

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

SECTION 1. Subsections (1) to (4) of section 14.44, section 14.46, subsection (1) of section 14.47, subsections (2) to (5) of section 59.74 and paragraphs (b) and (c) of subsection (7) of section 62.12 of the statutes are repealed.

SECTION 2. A new chapter and new sections are added to the statutes to read:

CHAPTER 34

PUBLIC DEPOSITS

34.01 DEFINITIONS. As used in this chapter: (1) "Public deposit" shall mean moneys deposited by the state or any county, city, village, town, drainage district, power district, school district, sewer district, or other governmental subdivision, or any commission, committee, board or officer thereof, in any state or national bank, banking institution, or trust company in this state.

(2) "Public depository" shall mean a state or national bank, banking institution, or trust company which receives or holds any public deposits.

(3) "Public depositor" shall mean the state or any county, city, village, town, drainage district, power district, school district, sewer district, or other governmental subdivision of the state, or any

commission, committee, board or officer thereof, which deposits any moneys in a public depository.

(4) "Governing board" shall mean the county board or committee designated by the county board to designate public depositories in the case of a county, the city council in the case of a city, the village board in case of a village, the town board in case of a town, the school board in the case of a school district, and the body of any other governmental subdivision of the state or commission or committee, board or officer which under the statutes has authority to designate the public depositories in which the moneys of such governmental subdivision shall be deposited.

34.02 LIABILITY OF TREASURERS. Notwithstanding any other provision of law, the state treasurer, and the treasurer of any county, city, village, town, drainage district, power district, school district, sewer district, or other governmental subdivision of the state, or any commission, committee, board or officer thereof, upon depositing public moneys in any state depository or public depository as designated and limited by the state board of deposits or the governing board, as the case may be, and without regard to the giving, renewal or approval of a bond or other security by such depository, is thereby relieved of liability for any loss of public moneys which results from the failure or insolvency of any such depository. For the purposes of this section, a designation of a public depository by the governing board of the public depositor electing or appointing a treasurer shall be a designation of such public depository for all public depositors for which such treasurer shall act, and the term "public moneys" shall include all moneys coming into the hands of such state treasurer or other treasurer or commission, committee, board or officer by virtue of his office, without regard to the ownership of the moneys.

34.025 APPLICATION. Sections 34.03 to 34.07 shall not apply to deposits of public funds which are secured by bonds or other security furnished under statutes heretofore in effect so long as such bonds or other security shall remain in force. No such bonds or other security shall be renewed.

34.03 LIMITATION OF PUBLIC DEPOSITS. (1) The aggregate public deposits in any public depository shall never exceed, with the exception stated in subsection (2), twenty per centum of the average daily deposits in such depository during the calendar year preceding, and shall not exceed twice the paid-up capital and surplus.

(2) A public depository may receive and hold public deposits in excess of the maximum aggregate public deposits specified in subsection (1) for a period not exceeding sixty days, provided that all excess public deposits shall be kept as a cash reserve in addition to the reserve prescribed in section 221.27. A public depository on receiving any excess public deposits shall immediately notify one or more of its public depositors to withdraw all or a part of their public deposits, and each public depositor so notified shall within sixty days make such withdrawal.

(3) The aggregate public deposits in all public depositories in the state shall be distributed as nearly as may be between the public depositories in proportion to the maximum public deposits they are respectively permitted to hold under subsection (1).

(4) The board of deposits on the recommendation of the commissioner of banking shall supervise the distribution of such public deposits and shall prescribe and allocate the deposits of state moneys in such manner as to bring about as nearly as may be a distribution of public deposits in conformity with subsection (3).

34.04 INTEREST. Interest shall be paid upon all public deposits at the rates fixed by the board of deposits on deposits of moneys belonging to the state pursuant to section 14.45. No interest shall be paid upon any excess public deposit coming under subsection (2) of section 34.03.

34.05 ADDITIONAL DEPOSITORIES. Whenever the public depositories designated by any governing board are unable under the provisions of subsection (1) of section 34.03 to receive and hold all moneys of any public depositor which should be deposited, the treasurer thereof, or corresponding officer after notice in writing to each member of the governing board and subject to the further action of the governing board, may designate additional public depositories to act as such for not exceeding sixty days in the same manner as if designated by such governing board.

34.06 STATE DEPOSIT FUND. (1) The state deposit fund established under subsection (4) of section 14.44 shall from the taking effect of this chapter include all public deposits. Such fund shall be used solely for the reimbursement of losses resulting from the failure of any public depository to repay to any public depositor on demand the full amount of its deposits. Such fund shall be administered by the state treasurer under the direction of the board of deposits and shall be deposited or invested as

are other funds of the state. The state treasurer, under the direction of the board of deposits, shall have power to contract for the distribution of any excess losses to the fund. All expenses under such contracts as well as all expenses of administration shall be paid out of the state deposit fund.

(2) Every bank 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 rate of one per cent per year on the average daily balance of such deposits so deposited with it for the preceding three months' period, such sum to be collected by the depository from the depositors. The rate herein fixed may be changed by the board of deposits on the recommendation of the commissioner of insurance and the commissioner of banking when experience indicates that such rate is either too low or too high, based on the standard that the state deposit fund should have sufficient reserves to enable it to promptly pay all the losses likely to occur, but that the charge to the public depositors should be no higher than is necessary for this purpose.

(3) If at any time the state deposit fund shall not be large enough to meet all losses caused by the failure of any public depository to repay public deposits when demanded, the secretary of state shall, notwithstanding this fact, to the extent directed by the state board of deposits draw his warrant payable from the general fund in such amount as may be necessary to meet such losses, and the state treasurer shall promptly pay such warrant out of any moneys in his hands. The board of deposits shall thereafter from time to time order such reimbursement of the general fund from the state deposit fund as it shall deem proper, on which order the secretary of state shall issue his warrant for such transfer.

(4) Every loss required to be paid out of the state deposit fund shall be paid within three months after the loss has been definitely ascertained, and the payment thereof shall operate as an assignment to the state deposit fund, of all interest of the depositor in the deposit on which such loss is paid. The board of deposits is authorized to take such action as in its discretion shall seem best for the protection, collection, compromise, or settlement of any claim in favor of the state deposit fund.

(5) The board of deposits shall have power to require from any public depository and from the commissioner of banking such

information with regard to any such depository as it may request. Any public depository refusing or neglecting to give any information so requested may be excluded from the right to receive public deposits. Information furnished to the board of deposits pursuant to this section shall be governed by section 220.06, but this shall not prevent the board of deposits from disclosing information relating to the condition of any national bank to the comptroller of the currency.

(6) Except as provided in section 34.025 no bond or other security shall be required of or given by any public depository for any public deposits, and compliance with the provisions of chapter 34 shall be in lieu of any requirement of a bond or other security from any public depository.

34.07 BANKS AS PUBLIC DEPOSITORIES. Every state bank, savings and trust company and mutual savings bank shall be a public depository and a national bank located in this state which desires to become a public depository shall file with the state treasurer 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 subsection (2) of section 34.06 and will comply in all respects as to public deposits with the provisions of chapter 34. The state treasurer, upon request, shall advise any interested person what banks have qualified to become public depositories and any such bank may thereafter be designated by any governing board as a public depository. The board of deposits shall have the same powers and duties with regard to making and continuing public deposits in national banks as the powers and duties exercised and performed by it with regard to public deposits in state banks.

34.08 SEPARABILITY OF PROVISIONS. If any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

20.055 STATE DEPOSIT FUND. All moneys paid into the state deposit fund under the provisions of section 34.06 are appropriated to the state treasurer, to carry out the purposes of the creation of said fund and to be used as provided in said section 34.06.

SECTION 3. Sections 14.43 and 14.45, subsections (5) of section 40.10, section 40.23, subsections (1) and (6) of section 59.74, subsection (25) of section 60.29, and subsection (38) of section 61.34 of the statutes are amended to read: 14.43 BOARD OF DEPOSITS. * * * The "Board of Deposits" * * * *shall consist* of the commissioners of public lands and the governor. * * * The members of said board shall receive no additional compensation for the performance of their duties. The record of the proceedings of said board shall be kept by the secretary of state, and a duly certified copy thereof, or any part thereof, shall be admissible in evidence in any action or proceeding in any court of this state.

14.45 INTEREST. The board of deposits shall from time to time fix the rates of interest to be paid by * * * depositories * * * *on active and inactive deposits* and cause notice thereof to be published in the official state paper. The rate of interest *on inactive deposits*, until changed by said board, shall be two and one-half per centum per annum *on deposits actually received and held by the depositories*.

(40.10) (5) (Created by Chapter 160, Laws 1931) Whenever the board shall designate by resolution any banking institution as depository for the funds of the district, the treasurer of such district shall not be liable for any loss thereof resulting from the failure or default of such depository. * * *

40.23 Any district board or board of education may designate the bank where the money belonging to the school district shall be deposited. * * * When the money is so deposited the treasurer and his bondsmen shall not be liable for the loss thereof by reason of the failure of such bank. The interest arising therefrom shall be paid into the school treasury.

(59.74) (1) The county board of each county containing two hundred thousand or more population * * * shall annually designate two or more, and in other counties the county board, or when the occasion arises and the county board is not in session, then * * * *a committee * * * of the board which has been authorized to do so* shall designate one or more banks, banking institutions or trust companies organized and doing business under the Wisconsin or United States laws, located in Wisconsin, as county depositories.

(6) * * * Any county board or the committee provided for in subsection * * * (1) may offer the county funds to the several banks and banking institutions of the county for deposit for one year from the first day of the following January and * * * may designate * * * *one or more banks or banking institutions as working banks*, all deposits in which shall be subject to draft and payment at all times on demand * * * .

(60.29) (25) To designate the bank or banks where the money belonging to the town shall be deposited * * * . When the money is so deposited the treasurer and his bondsmen shall not be liable for the loss thereof by reason of the failure of such bank or banks. The interest arising therefrom shall be paid into the town treasury.

(61.34) (38) To designate the bank or banks where the money belonging to the village shall be deposited * * * . When the money is so deposited the treasurer and his bondsmen shall not be liable for the loss thereof by reason of the failure of such bank or banks. The interest arising therefrom shall be paid into the village treasury.

SECTION 4. This act shall take effect upon passage and publication.

Approved December 10, 1931.

No. 4, S.]

[Published December 28, 1931.

CHAPTER 2.

AN ACT to amend subsection (10) of section 48.33 of the statutes, relating to the charging back in certain counties of the cost of aid for dependent children to the municipalities.

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

SECTION 1. Subsection (10) of section 48.33 of the statutes is amended to read: (48.33) (10) The county clerk of each county having a population of one hundred *and fifty* thousand or more shall make a report to the county board at its annual November meeting showing in detail the amount of money advanced by the county to the residents of each town, village and city under the provisions of this section and section 48.331, less the amount recoverable from the state, as provided in paragraph (c) of sub-