CHAPTER 34
PUBLIC DEPOSITS

34.01 Definitions. In this chapter:

(1) “Governing board” means the investment board in the case of the state, the housing and economic development authority if the authority elects to be bound by all or part of this chapter under s. 234.32 (2), 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 the case of a village, the town board in the case of a town, the school board in the case of a school district, the board of control in the case of a cooperative educational service agency, the clerk of court in the case of any court in this state, and any other commission, committee, board or officer of any governmental subdivision of the state not mentioned in this subsection.

(2) “Loss” means any of the following:

(a) Any loss of public moneys, which have been deposited in a designated public depository in accordance with this chapter, resulting from the failure of any public depository to repay to any public depositor the full amount of its deposit because the office of credit unions, administrator of federal credit unions, U.S. comptroller of the currency, federal home loan bank board, U.S. office of thrift supervision, federal deposit insurance corporation, resolution trust corporation, or division of banking has taken possession of the public depository or because the public depository has, with the consent and approval of the office of credit unions, administrator of federal credit unions, U.S. office of thrift supervision, federal deposit insurance corporation, resolution trust corporation, or division of banking has taken possession of the public depository or because the public depository

(b) With respect to public moneys deposited in the local government pooled–investment fund, in addition to a loss as described in par. (a), the public depositor’s proportionate share of any loss of principal invested or reinvested by the investment board under s. 25.50 (6).

(3) “Public deposit” means public moneys deposited by a public depository in a public depository, including private moneys held in trust by a public officer.

(4) “Public depository” means the state or any county, city, village, town, drainage district, power district, school district, cooperative educational service agency, sewer district, or any commission, committee, board or officer of any governmental subdivision of the state or any court of this state, a corporation organized under s. 39.33 or the housing and economic development authority if the authority elects to be bound by all or part of this chapter under s. 234.32 (2), which deposits any moneys in a public depository.

(5) “Public depository” means a federal or state credit union, federal or state savings and loan association, state bank, savings and trust company, federal or state savings bank, or national bank in this state which receives or holds any public deposits or the local government pooled–investment fund.

(6) “Public moneys” means all moneys coming into the hands of the treasurer of a public depository by virtue of his or her office without regard to the ownership of the moneys.

(7) “Treasurer” means any duly elected, appointed or acting official or employee of a public depository whose duties require that he or she receive and account for public moneys.


Legislative Council Note, 1985: Sub. (2) is amended to remove the reference to a required payment made into the state deposit guarantee fund, since the fund is prospectively abolished in this bill.

Sub. (3) is amended in order to shorten the definition by making use of other defined terms in the section.

Sub. (5) is amended to specifically include “federal or state” credit unions and “federal or state” savings and loan associations as public depositories.

Sub. (6) is amended to shorten the definition by making use of other defined terms in the section. In making use of the term “public depository”, this subsection specifically includes the treasurer of a corporation organized under s. 39.33. This corporation, created by the higher educational aids board to provide for a guaranteed student loan program, is included in the definition of “public depository” in sub. (4), but is not listed in current sub. (6).

Sub. (7) is amended to shorten the definition by making use of other defined terms in the section. In making use of the term “public depository”, this subsection specifically includes the treasurer of a corporation organized under s. 39.33. This corporation, created by the higher educational aids board to provide for a guaranteed student loan program, is included in the definition of “public depository” in sub. (4), but is not listed in current sub. (7).

1982 c. 74; 1983 a. 189; 1985 a. 11.

34.02 Exemption. This chapter shall not apply to trustees and fiscal agents appointed under s. 18.10 (8) or 67.10 (2).

History: 1979 c. 34; 1987 a. 197.

34.03 Powers of the division of banking. The division of banking may do any of the following:

(1) Make and enforce rules necessary for the implementation of this chapter.

(2) Require any public depository or the trustees of segregated trusts created by banks for the benefit of public depositors to furnish information upon request. Any public depository which refuses or neglects to give any information so requested shall be excluded from the right to receive public deposits. Information obtained under this subsection may not be disclosed by the division of banking unless disclosed as provided in s. 220.06.

(3) Take such action as the division deems necessary or appropriate for the protection, collection, compromise or settlement of any claim against or in favor of the appropriation under s. 20.144 (1) (a).

(4) Exercise all powers reasonably necessary and proper to the full and complete performance of the division’s functions under this chapter, including but not limited to ordinary powers granted corporations.

History: 1983 a. 25; 1995 a. 27.
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Legislative Council Note, 1985: This section is repealed and recreated in order to remove the following powers of the commissioner of banking related to the operation of the state deposit guarantee fund:

(a) Contracting for reinsurance of the fund to protect it against excessive loss.

(b) Fixing the rate of payment into the fund.

(c) Levy ing and collecting penalties.

(d) Prescribing rules for the qualification of credit unions, banks and savings and loan associations as public depositories and fixing terms and conditions under which public deposits may be held.

(e) Fixing the official date on which losses shall be deemed to have been incurred.

With respect to this power, see proposed s. 34.08 and the NOTE following that treatment.

The section also provides that information obtained from public depositories by the commissioner of banking may not be disclosed by the commissioner unless the information is disclosed as provided in s. 225.06. That section of the statutes provides, in part, that the commissioner of banking, officers and employees of the office of the commissioner and members of the banking review board are bound by oath to keep secret all facts and information obtained in the course of examinations except in specified circumstances. [85 Act 25]

34.045 Secretary of administration. (1) The secretary of administration or his or her designee shall:

(a) Establish procedures for the selection of public depositories by state agencies and departments and procedures for contracting for the reasonable and necessary depository services by state agencies and departments and may direct the combination or division of services so as to provide convenient and cost efficient services.

(b) Establish procedures by which state agencies and departments pay for services through compensating balances or fees, or a combination of both methods.

(bm) Maintain compensating balances, or direct the investment board to pay bank service costs as allocated by the secretary of administration under s. 25.19 (3) directly from the income account of the state investment fund, or by a combination of such methods.

(e) Require utilization of competitive bidding under s. 16.75 in the designation of all state public depositories and in contracting for depository services.

(f) Establish by rule minimum depository operational requirements that any institution must meet prior to being considered as eligible to submit any proposal to serve as a public depository or to provide services.

(g) Upon request of any state agency or department, provide assistance in the selection of a depository.

(2) The secretary of administration or his or her designee shall require any state department or agency to submit to him or her for prior review, elimination, consolidation, renegotiation, or confirmation any existing service contract or service proposal by the department or agency.

(3) The secretary of administration or his or her designee may, for cause, disapprove any contract submitted under sub. (2) if he or she finds the proposed contract to be in violation of the guidelines established under sub. (1), or to have been improperly negotiated or to be otherwise illegal. If the secretary of administration or his or her designee fails to disapprove a proposed contract within 60 days after it is submitted by the department or agency, the contract shall be deemed approved. The secretary of administration or his or her designee shall provide written justification for disapproval of a proposed contract by a state agency or department. A disapproval is subject to judicial review under ch. 227.

(4) State agencies and departments shall provide the secretary of administration or his or her designee with a written justification for any proposed contract award for service.


34.05 Designation of public depositories. (1) The governing board of each public depository shall, by resolution, designate one or more public depositories, organized and doing business under the laws of this state or federal law and located in this state, in which the treasurer of the governing board shall deposit all public moneys received by him or her and specify whether the moneys shall be maintained in time deposits subject to the limitations of s. 66.0603 (1m), demand deposits, or savings deposits and whether a surety bond or other security shall be required to be furnished under s. 34.07 by the public depository to secure the repayment of such deposits. A designation of a public depository by the governing board shall be a designation of the public depository for all treasurers of the governing board and for all public depositories for which each treasurer shall act.

(2) Whenever any governing board fails or refuses to designate a public depository, the treasurer of the public depository, after notice in writing to each member of the governing board and subject to further action of the governing board, may designate public depositories for no longer than 90 days in the same manner as if designated by the governing board.

(3) Every treasurer shall deposit public moneys immediately upon receipt in the name of the public depositor in the public depository or public depositories designated by the governing board.

(4) Notwithstanding sub. (1), s. 66.0603 (1m) (a), or any other provision of law, the governing board of a public depository may direct the treasurer of the governing board to deposit public moneys in a selected public depository and, directly or through an authorized agent, instruct the public depository to arrange for the redeposit of the moneys through a deposit placement program meeting all of the following conditions:

(a) On or after the date that it receives the public moneys, the selected public depository arranges for the redeposit of the moneys into deposit accounts in one or more federal or state savings and loan associations, state banks, federal or state savings banks, savings and trust companies, or national banks insured by the federal deposit insurance corporation or federal or state credit unions insured by the national credit union administration.

(b) The full amount of the public depositor’s moneys redeposited by the selected depository into deposit accounts with the financial institutions identified in par. (a), plus any accrued interest, are insured by the federal deposit insurance corporation or national credit union administration.


Legislative Council Note, 1985: Sub. (1) is amended to remove the requirements that (a) the governing board of each public depository file a certified copy of its resolution that designates a public depository with the commissioner of banking and (b) a public depository be approved as a qualified public depository by a state or federal regulator. The subsection is further amended by removing the prohibition that a public depository may not condition its public depository decisions upon an agreement by the public depository to invest deposits in any particular form of investment or in any particular geographic location.

Sub. (2) is amended to clarify that it is the governing body’s responsibility to determine whether collateral, a surety bond or other security, shall be furnished by the public depository as a means of securing public deposits.

Sub. (3) contains no substantive changes. However, defined terms are substituted for existing language.

Sub. (4) is repealed. This subsection relates to payments made to the state deposit guarantee fund and penalties based on those payments by any municipality attempting to evade the requirements of ch. 34. This subsection is no longer necessary since the fund is prospectively abolished in this bill. [85 Act 25]

34.06 Liability of treasurers. Notwithstanding any other provision of law, a treasurer who deposits public moneys in compliance with s. 34.05 is thereby relieved of liability for any loss of public moneys which results from the failure of any depository to repay the public depositor the full amount of its deposits thus causing a loss as defined in s. 34.01 (2).

History: 1983 a. 189 x. 329 (21); 1985 a. 25; 2011 a. 204.

Legislative Council Note, 1985: This section is amended to retain the immunity to liability for treasurers of public depositories who comply with s. 34.05. This section is amended to remove references to bonds or security since this bill amends s. 34.07 to permit a public depository to require a bond or other security for public deposits. Further, this section is amended to shorten the listing of treasurers by making use of the defined term in s. 34.01 (7). In making use of the term "treasurer", this subsection specifically includes the treasurer (or clerk, in the case of a court) of:

A cooperative educational service agency.

Any court of Wisconsin.

A corporation organized under s. 39.33, by the Wisconsin higher educational aid board, to provide for a guaranteed student loan program.
the division of banking with regard to public deposits in state banks.


Legislative Council Note, 1985: This section is amended to provide that a public depository is not required to file with the commissioner of banking a statement of all payments made under this section.

34.105 Withdrawal of public funds. (1) Withdrawal or disbursement by a treasurer of any county, city, village, town, or highway district, of public money, of public deposits shall be made in the order in which satisfactory proofs of loss are received by the division of banking. The payment made to any public depositor for all losses of the public depositor in any individual public depository may not exceed $400,000 above the amount of deposit insurance provided by an agency of the United States and the coverage provided under s. 34.08 (2).


Legislative Council Note, 1985: This section is amended to provide that a public depository is not required to file with the commissioner of banking a statement of all payments made under this section.

34.09 Financial institutions eligible as public depositories. Every federal or state credit union, state bank, federal or state savings and loan association, savings and trust company and federal or state savings bank and every national bank may be designated as a public depository and may receive and hold public deposits, subject to this chapter, if the financial institution has a branch or main office located in this state, complies with this chapter with respect to public deposits and accepts payments made by the state under s. 16.412. The division of banking has the same powers and duties with regard to making and continuing public deposits in national banks, federal and state credit unions, federal and state savings banks and federal and state savings and loan associations as the powers and duties exercised and performed by the division of banking with regard to public deposits in state banks.

school district or cooperative educational service agency of mon-
ey deposited in a public depository shall be made as provided by s. 66.0607 (1) to (5). “Treasurer” as used in this subsection means only the elected, appointed or acting official treasurer of a county, city, village, town, school district or cooperative educational service agency and does not include all of the other persons within the definition of that term in s. 34.01 (7). This section does not affect s. 67.10 (2).

(2) Withdrawal or disbursement of moneys deposited in a public depository by treasurers as defined in s. 34.01 (7), except those mentioned in sub. (1) shall be as provided in s. 66.0607 (6).

History: 1979 c. 301; 1999 a. 150 s. 672.

34.11 Penalties. Any person who willfully violates ss. 34.01 to 34.10, or any orders or rules promulgated by the division of banking under said sections, shall for each such offense be fined not more than $500 or imprisoned not more than 6 months, or both.

History: 1995 a. 27.