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## Deposit Of Public Moneys In Credit Unions.

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## Deposit of Public Moneys in Credit Unions

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### Official Title and Summary Prepared by the Attorney General

DEPOSIT OF PUBLIC MONEYS IN CREDIT UNIONS. LEGISLATIVE CONSTITUTIONAL AMENDMENT. The California Constitution currently provides that Legislature may provide for the deposit of public moneys in any bank or savings and loan association in this state. This measure authorizes the Legislature to also provide for the deposit of public moneys in any credit union in this state. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: By itself, this measure has no direct fiscal effect. Legislation already approved to implement this measure could result in greater interest income to state and local governments by increasing competition for the deposit of public moneys.

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### Final Vote Cast by the Legislature on ACA 21 (Proposition 45)

Assembly: Ayes 69  
Noes 3

Senate: Ayes 34  
Noes 0

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### Analysis by the Legislative Analyst

#### Background

The California Constitution gives the Legislature specific authority to allow for the deposit of public moneys in banks or savings and loan associations located in California. (Public moneys are funds belonging to, or in the custody of, the state government or any local government.)

The Superintendent of Banks oversees deposits of public moneys made by local agencies. The State Treasurer performs a similar function for deposits of public moneys made by the state.

#### Proposal

This constitutional amendment would authorize the Legislature to provide for the deposit of public moneys in credit unions located in California. The Legislature has enacted a measure to permit such deposits, but the act will take effect only if the voters approve this amendment.

#### Fiscal Effect

By itself, this measure has no direct fiscal effect. The legislation already approved to implement this measure could result in greater interest income to the state and local governments by increasing competition for the deposit of public moneys.

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You count your blessings—we'll count your VOTE!

Karen Alarcon, San Martin

## Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 21 (Statutes of 1984, Resolution Chapter 106) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

### PROPOSED AMENDMENT TO ARTICLE XI, SECTION 11

SEC. 11. (a) The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions.

(b) The Legislature may, however, provide for the deposit of public moneys in any bank in this state or in any savings and loan association in this state *or any credit union in this state* and for ~~the~~ payment of interest, principal and redemption premiums of public bonds and other ~~evi-~~  
~~dences~~ *evidence* of public indebtedness by banks within or without this state. It may also provide for investment of public moneys in securities and the registration of bonds and other evidences of indebtedness by private persons or bodies, within or without this state, acting as trustees or fiscal agents.

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If you have any questions about voting  
call your county clerk or  
registrar of voters

## Argument in Favor of Proposition 45

Your yes vote on Proposition 45 would authorize the Legislature to designate credit unions as depositories of public funds. This amendment would simply add credit unions to the two financial institutions which are already authorized to receive public funds: banks and savings and loan associations.

Credit unions are cooperative financial institutions that provide traditional consumer banking services to their members. They are required to be federally insured, although state credit unions may elect to participate in a private insurance or guaranty corporation that is acceptable to the state regulator instead of federal insurance.

Presently federal law designates federal credit unions as financial institutions which are eligible to receive public funds and act as fiscal agents of the United States. Federal law also designates federally insured state credit unions as fiscal agents and depositories of the United States government. This change would permit the Legislature to provide similar statutory provisions for federal and state credit unions in California.

This constitutional amendment would permit the public officers who are responsible for the investment of public funds the choice of investing in a credit union if that financial institution would provide the best return to the public agency. This, in turn, would ensure that state and local governments receive a competitive rate for the public

funds that they have for deposit. The public finance officers would be responsible for the review and selection of any credit union from among competing financial institutions.

Credit unions which receive public funds would be regulated by the Superintendent of Banks and would be subject to the same statutory requirements as other financial institutions.

Adopted by an overwhelming vote of both the Democrats and Republicans in the State Legislature, this measure is supported by the California Credit Union League, the Department of Corporations and the 1,158 credit unions in California.

We believe that the change proposed in Proposition 45 would add flexibility to present investment options available for public finance officers, while adding no risk to the expanded choice. We strongly urge you to vote YES on Proposition 45.

**ALISTER MCALISTER**  
*Member of the Assembly, 18th District*

**LEON L. WILLIAMS**  
*Supervisor, 4th District*  
*County of San Diego*

**ROY D. BYSEGGER**  
*City Manager*  
*City of Crescent City*

## Rebuttal to Argument in Favor of Proposition 45

As an organization composed of public officers who are responsible for the investment of public funds, the California Municipal Treasurers Association at a statewide general membership meeting voted opposition to Proposition 45.

Many of our members are active credit union participants in their own jurisdictions and respect the traditional role of these cooperative financial institutions in serving their members. As guardians of the public trust, however, we must still urge your no vote on this issue.

Proponents of Proposition 45 argue that they merely wish to offer another investment option to ensure that state and local governments receive competitive rates on public money deposits. They further argue that credit unions that accept public funds would be subject to regulation by the Superintendent of Banks. Unfortunately, the authority of this regulatory agency cannot dictate the methods of dollar settlement to depositors in some specific instances of default or closure. This is the issue.

In cases of voluntary closure of a credit union, time

delays of years might be encountered before all moneys are returned to depositors. Also during this period of time there is no statutory duty to pay further interest on deposits.

Our no-vote position on Proposition 45 was adopted by an overwhelming majority of our general assembly. This gathering was composed of those persons responsible for the investment and management of public funds.

We believe that the changes proposed in Proposition 45 are not in the best interest of sound dollar management for public agencies in California.

**THOMAS C. RUPERT**  
*City Treasurer*  
*City of Torrance*

**DONALD TARNOW**  
*Immediate Past President*  
*California Municipal Treasurers Association*

**LIANE C. SCOTT**  
*President*  
*California Municipal Treasurers Association*

## Argument Against Proposition 45

In voicing opposition to this constitutional amendment the California Municipal Treasurers Association does not wish to imply that state or federal credit unions in California are bad-risk depositories for their member users.

Opposition to this proposal is based solely upon the need to protect interest accrual on public money deposits and to provide absolute liquidity of dollars deposited to ensure availability when and as they are needed.

Major concerns are centered around the form of deposit insurance covering credit union share deposits and particularly the promptness in which taxpayers' dollars can be returned in cases of default.

Our association has been informed by the National Credit Union Administration (a federal agency) that credit union closures can be of a voluntary or involuntary nature. During this past year a total of 43 closures were recorded nationally.

During the year 1985 the majority of credit union closures in the United States were of a *voluntary* nature. Unfortunately, voluntary closures, i.e. circumstances in which credit unions are solvent and simply wish to cease doing business, are the types of closures that can trigger major delays in the return of moneys to shareholders. Under this circumstance depositors must wait until assets are liquidated in order to provide sufficient funds for repay-

ment. This process can take from six months to two years or even longer to complete. During the period of liquidation no further interest accrual on deposits is required to be paid.

Remaining closures during the year 1985 were of an *involuntary* nature. Under this circumstance, deposits up to \$100,000 are insured by an insurance fund which carries the full faith and credit of the United States government. Under the instance of involuntary closure depositors (shareholders) are normally paid within a two-week period.

Again, opposition expressed by the California Municipal Treasurers Association is based upon the reasons expressed herein and is not intended to reflect upon the creditworthiness of state or federal credit unions operating in California.

THOMAS C. RUPERT

*City Treasurer  
City of Torrance*

DONALD TARNOW

*Immediate Past President  
California Municipal Treasurers Association*

LIANE C. SCOTT

*President  
California Municipal Treasurers Association*

## Rebuttal to Argument Against Proposition 45

Opponents' arguments of possible delays in withdrawal of investments and potential loss of interest when a credit union voluntarily liquidates is misplaced.

First, existing statutes ensure that the treasurer can protect the local agency through the statutorily required contract with the financial institution. The money deposited is deemed to be in the treasury of the local agency and is required to be secured unless waived by the treasurer. The contract must contain the conditions upon which the securities are converted to money and the procedure for conversion. The statute expressly provides that, pursuant to the contract and on the demand of the treasurer, the securities which secure the public funds shall be converted into money in order for the public agency to receive the deposited funds and "any accrued interest due." The securities pledged as collateral must equal 110% of the public funds on deposit.

The result is that existing statutes provide protection so a public agency would not have to wait to withdraw public funds or lose income in the event of a voluntary liquidation.

Secondly, the closures cited by opponents are national figures. In 1985 there were no voluntary liquidations in California. In 1983 and 1984 there were two voluntary liquidations. Both were very small credit unions.

Since the likelihood of a voluntary liquidation is remote and the statutes protect local agencies from delays in receipt of the deposited moneys or income from the investment, the concerns expressed are misplaced. We urge a yes vote for this measure.

ALISTER McALISTER

*Member of the Assembly, 18th District*

HAL E. BREWER

*Director of Finance, City of Riverside*

Surprise the experts! Vote.

Ida Longshore, La Jolla