

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4801

By Delegates Criss, Barnhart, Westfall, Hott and

Espinosa

[Introduced January 16, 2024; Referred
to the Committee on Banking and Insurance then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §12-1-1b, and to amend and reenact §12-1-5 and §12-1B-5 of said code; all
 3 relating generally to the banking authority of the State Treasurer’s Office; setting forth
 4 prohibited clauses in State Treasurer contracts consistent with general restrictions on
 5 other state contracts; providing that the State Treasurer may implement the West Virginia
 6 Security for Public Deposits Program; and requiring announcement of the West Virginia
 7 Security for Public Deposits Program commencement date on the State Treasurer’s
 8 website.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-1b. Prohibited clauses in State Treasurer contracts.

1 (a) Notwithstanding any exemption from the requirements of §5A-3-1 et seq. of this code, a
 2 condition entered into by the State Treasurer is void to the extent that it requires the State
 3 Treasurer to agree to or abide by a contract clause or condition prohibited in §5A-3-62 of this code,
 4 as that section applies to spending units.

5 (b) No official, employee, agent, or representative of the State Treasurer may contravene
 6 this section, and no oral or written expression of consent to any term or condition declared void by
 7 this section, or signature on a contract, may be considered as such. Any contract that contains a
 8 term or condition declared void by this section shall otherwise be enforceable as if it did not contain
 9 such term or condition. All contracts entered into by the State Treasurer, except for contracts with
 10 another government, shall be governed by West Virginia law notwithstanding any term or condition
 11 to the contrary.

§12-1-5. Limitation on amount on deposit; dedicated method; rules.

1 (a) The amount of state funds on deposit in any depository in excess of the amount insured
 2 by an agency of the federal government shall be secured by a deposit guaranty bond issued by a
 3 valid bankers’ surety company or by other securities acceptable to the State Treasurer, pursuant

4 to the dedicated method as defined in ~~§12-1B-4 of this code~~, in an amount of at least 102 percent
5 of the amount on deposit. The value of the collateral shall be determined by the State Treasurer.

6 (b) The State Treasurer shall may propose rules for legislative approval in accordance with
7 the provisions of §29A-3-1 *et seq.* of this code and may promulgate emergency rules pursuant to
8 the provisions of §29A-3-15 of this code as are necessary to effectuate the provisions of this
9 section.

10 (c) For the purposes of this section, the term "dedicated method" means the securing of
11 public deposits without accepting the contingent liability for the losses of public deposits of other
12 designated state depositories as provided in this section.

ARTICLE 1B. WEST VIRGINIA SECURITY FOR PUBLIC DEPOSITS ACT.

§12-1B-5. West Virginia Security for Public Deposits Program ~~established~~ authorized.

1 The West Virginia Security for Public Deposits Program is hereby ~~established~~ authorized.
2 The requirements of this article shall become effective upon the date the West Virginia Security for
3 Public Deposits Program commences, which the State Treasurer shall announce by publishing a
4 notice on the West Virginia State Treasurer’s Office website. The Treasurer shall implement and
5 administer the West Virginia Security for Public Deposits Program under the terms and conditions
6 required by this article. ~~The Public Deposits Program shall be operable on or before March 1, 2024~~

NOTE: The purpose of this bill is to set forth prohibited clauses in State banking contracts and to remove the date by which the Public Deposits Program must be operable under the West Virginia Security for Deposits Act to allow discretion for program implementation.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.