

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 826**

By Senator Nelson

[Passed March 7, 2024; in effect 90 days from  
passage]



19 bond.

20 (b) An action shall lie on the bond at the instance of the county commission, or the sheriff,  
21 for the recovery of any money deposited in the depository, upon failure or default of the depository  
22 to fully and faithfully account for and pay over any and all public moneys deposited by the sheriff  
23 and of all interests earned and accrued thereon as required by this article. A bond may not be  
24 accepted by the county commission until it has been submitted to the prosecuting attorney, and  
25 certified by him or her to be in due and legal form, and conformable to the provisions of this article,  
26 which certificate shall be endorsed thereon.

27 (c) The county commission may, in lieu of the bond required pursuant to this section,  
28 accept as security for money deposited as aforesaid, interest-bearing securities of the United  
29 States, or of a state, county, district or municipal corporation, or of the federal land banks, or  
30 endorsed county and district warrants of the county in which the depository is located, or letters of  
31 credit of the federal land banks, or federal home loan banks, or any other letters of credit approved  
32 by the treasurer; the face value of which securities may not be less than the sum hereinbefore  
33 specified as the amount to be named in the bond in lieu of which the securities are accepted; or the  
34 county commission may accept the securities as partial security to the extent of their face value for  
35 the money so deposited, and require bond for the remainder of the full amount hereinbefore  
36 specified, to be named in the bond, and in the bond so required, the acceptance of securities as  
37 partial security, and the extent thereof, shall be set forth.

38 (d) A banking institution is not required to provide a bond or security in lieu of bond  
39 pursuant to this section if the public deposits accepted are placed in certificates of deposit meeting  
40 the following requirements:

41 (1) The funds are invested through a designated state depository selected by the county;

42 (2) The selected depository arranges for the deposit of the funds in certificates of deposit in  
43 one or more banks or savings and loan associations wherever located in the United States, for the  
44 account of the county;

45 (3) The full amount of principal and accrued interest of each certificate of deposit is insured  
46 by the Federal Deposit Insurance Corporation;

47 (4) The selected depository acts as custodian for the county with respect to such  
48 certificates of deposit issued for the county's account; and

49 (5) On the same date the public moneys are redeposited by the public depository, the  
50 public depository may, in its sole discretion, choose whether to receive deposits, in any amount,  
51 from other banks, savings banks, or savings and loan associations.

52 (e) A banking institution is not required to provide a bond or security in lieu of bond  
53 pursuant to this section for deposits with any duly designated state depository that is selected and  
54 authorized by the county commission to arrange for the redeposit of the funds through a deposit  
55 placement program that meets the following conditions:

56 (1) On or after the date that the county commission funds are received, the selected  
57 depository:

58 (A) Arranges for the redeposit of the funds into deposit accounts in one or more federally  
59 insured banks or savings and loan associations that are located in the United States; and

60 (B) Serves as custodian for the county commission with respect to the funds deposited into  
61 such accounts;

62 (2) The county commission funds deposited in a selected depository in accordance with  
63 this subsection and held at the close of business in the selected depository in excess of the  
64 amount insured by the Federal Deposit Insurance Corporation shall be secured in accordance  
65 with subsection (a) or (c) of this section;

66 (3) The full amount of the funds of the county commission redeposited by the selected  
67 depository into deposit accounts in banks or savings and loan associations pursuant to this  
68 subsection, plus accrued interest, if any, shall be insured by the Federal Deposit Insurance  
69 Corporation; and

70 (4) On the same date that the funds of the county commission are redeposited pursuant to

71 this subsection, the selected depository receives an amount of deposits from customers of other  
72 financial institutions through the direct placement program that are equal to the amount of the  
73 county commission's funds redeposited by the selected depository.

74 (f) The hypothecation of the securities shall be by proper legal transfer as collateral  
75 security to protect and indemnify by trust any and all loss in case of any default on the part of the  
76 banking institution in its capacity as depository as aforesaid. All the securities shall be delivered to  
77 or deposited for the account of the county commission, and withdrawal or substitution thereof may  
78 be permitted from time to time upon approval by the county commission by order of record, but the  
79 collateral security shall be released only by order of record of the county commission when  
80 satisfied that full and faithful accounting and payment of all the moneys has been made under the  
81 provisions hereof. In the event actual possession of the hypothecated securities are delivered to  
82 the county commission, it shall make ample provision for the safekeeping thereof and the interest  
83 thereon when paid shall be turned over to the banking institution, so long as it is not in default as  
84 aforesaid. The county commission may permit the deposit under proper receipt of the securities  
85 with one or more banking institutions within or without the State of West Virginia and may contract  
86 with any institution for safekeeping and exchange of any hypothecated securities and may  
87 prescribe the rules for handling and protecting the same.