WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1968

ENROLLED

SENATE BILL NO. 120

(By Mr. Britton)

PASSED February 8, 1968

In Effect on Passage

# 120

FILED IN THE OFFICE
ROBERT D. GAILEY
SECRETARY OF STATE
THIS DAY 2-16-68
AN ACT to amend and reenact sections one, two, five, six, seven, nine, ten and fourteen, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the designation of state depositories, bond to be given by depositories, the sureties thereon, and periods thereof, the deposit of state funds in demand deposits, the deposit of state funds in time deposits, the payment of interest on time deposits, certain contracts with respect to time deposits, open account, the withdrawal under certain circumstances of funds placed on time deposit, open account, certain duties and authority of the board of public works with respect to depositories and
depositors' agreements, certain reports by the state treasurer, the apportionment of time deposits among state depositories in each county, the transfer of funds from a state depository under certain circumstances, records to be maintained by the state treasurer concerning depository accounts, the investment of temporary surplus funds in certain bonds and obligations and the sale thereof, and the designation of depositories without the state.

Be it enacted by the Legislature of West Virginia:

That sections one, two, five, six, seven, nine, ten and fourteen, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-1. Designation of depositories; period of designation.

1 The state board of public works shall designate the state and national banks in West Virginia which shall serve as depositories for the deposit of state funds. Any such state or national bank desiring to be designated as a state depository shall, upon request to such board, be designated as a state depository, if such bank meets the requirements
set forth in this chapter. Any such designation shall be for a period of one year.

§12-1-2. Bonds to be given by depositories; surety accepted thereon.

Before allowing any money to be deposited with any depository the board of public works shall require such depository to give bond with good security to be approved by said board, in the penalty of not less than ten thousand dollars, payable to the state of West Virginia, conditioned for the prompt payment, whenever lawfully required, of any state money, or part thereof, that may be deposited with such depository, or of any accrued interest on deposits, which bond shall expire on the thirtieth day of April next ensuing: Provided, That a surety bond accepted by the board of public works pursuant to subdivision (a) of this section, shall not expire, if, prior to April first of each year, such depository shall file with the board of public works, a certificate issued by the surety on such bond, certifying that such bond will remain in full force and effect for the period of one year subsequent to April thirtieth of the year in question.
The board of public works may accept as surety on, or for the faithful performance of the conditions of such bonds, the following:

(a) A surety, fidelity or indemnity company authorized to do business in this state and having a combined capital and surplus of not less than one million dollars, and all bonds so secured are here designated as surety bonds;

(b) Persons or corporations which are duly authorized to become surety for another, who are owners of property situate in this state of an aggregate assessed valuation shown on the current assessment books equal to the penalty of the bond plus all liens or charges against such property, and all bonds so secured are here designated as personal bonds. Any person or any officer of any corporation becoming or offering to become surety on a personal bond may be required by the board of public works or the state treasurer to furnish to said board under oath in writing such data and documentary evidence as to the financial status of such surety as such board may request.

Any person who shall knowingly make a false statement
in the matter of supplying the information so requested as aforesaid shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars, and may, at the discretion of the court, be confined in the county jail for not exceeding one year;

(c) Collateral security consisting of bonds of the United States, and its possessions, of the federal land banks, of the home owners' loan corporation, of the state of West Virginia or of any county, district or municipality of this state or other bonds or securities approved by the said board of public works. All bonds so secured are here designated as collaterally secured bonds. Withdrawal or substitution of any collateral pledged as security for the performance of the conditions of such bond may be permitted with the approval in writing of the treasurer of the state of West Virginia and three other members of the board of public works who shall report such withdrawal or substitution at the next meeting of the board. All depository bonds shall be recorded by the secretary of state in a book kept in his office for the purpose, and a copy of
such record, certified by him, shall be prima facie evidence
of the execution and contents of such bond in any suit or
legal proceeding. All collateral securities shall be de-
levered to or deposited for the account of the treasurer
of the state of West Virginia, and in the event actual
possession of said securities shall be delivered to the
treasurer, then he shall receipt therefor to the owner
thereof. The said treasurer and his bondsmen shall be
liable to any person for any loss by reason of the em-
bezzlement or misapplication of said securities by said
treasurer or any of his official employees, and for the loss
thereof due to his negligence or the negligence of any of
his official employees; and such securities shall be de-
levered to the owner thereof when liability under the
bond which they are pledged to secure has terminated.
The treasurer may permit the deposit under proper re-
ceipt of such securities with one or more banking institu-
tions within or without the state of West Virginia and
may contract with any such institution for safekeeping
and exchange of any such collateral securities, and may
prescribe the rules and regulations for handling and pro-
tecting the same, subject to the approval of the board of public works.

§12-1-5. Demand deposits; time deposits; payment of interest on time deposits; time for payment of interest; contracts concerning time deposits, open account; withdrawal of funds placed on time deposit, open account.

As much money as may be needed for current operational purposes of the state government, as determined by the state treasurer, shall be maintained at all times in the state treasury in cash or in demand deposits with banks designated as depositories in accordance with the provisions of section one of this article. The state treasurer shall apportion such demand deposits among such depositories, giving due consideration to: (1) the activity of the various accounts maintained therein, (2) the reasonable value of the banking services rendered or to be rendered the state by such depositories, and (3) the value and importance of such deposits to the economy of the communities and the various areas of the state affected thereby.
The state treasurer shall place in time deposits such state funds as are not needed for current operational purposes within a ninety-day period and as are not invested in accordance with the provisions of section fourteen of this article. For the purposes of this article, the term "time deposits" shall mean either (1) time deposits, open account, or (2) certificates of deposit. Notwithstanding the foregoing provisions of this paragraph, certificates of deposit may be purchased by the state treasurer only with the approval of the board of public works. A depository shall not be required to accept demand deposits in order to receive time deposits, nor shall a depository be required to accept time deposits in order to receive demand deposits.

The board of public works shall require the payment of interest by all state depositories on all state funds deposited therein in time deposits. The annual rate of interest on funds placed in time deposits, open account, and the annual rate of interest on funds placed in certificates of deposit shall be determined by the treasurer and may be adjusted by him from time to time according to
the then prevailing rate of interest but shall be applied
uniformly to all time deposits made on any given date,
but any such rate shall not exceed the maximum per-
mitted by applicable banking regulations or state law.
The interest on time deposits, open account, shall be paid
at such intervals as may be agreed upon by and between
the state depository and the state treasurer. The state
treasurer is authorized to execute contracts with the
state depositories covering time deposits, open account.
Subject to applicable banking regulations or state law,
in the event of an emergency, the state treasurer is au-
thorized to withdraw all or any portion of the funds
placed on time deposit, open account on shorter notice
than the contract provides and to forfeit such amount of
accrued and unpaid interest as may be required.

§12-1-6. Board of finance abolished; rules and regulations of the
board of public works; depositors' agreements; re-
ports to the board of public works showing de-
pository balances.

The board of finance is hereby abolished. On and after
the effective date of this section, the board of public
works shall have the authority to establish any rules and regulations that it may deem necessary or expedient to protect the interests of the state, its depositories and taxpayers.

The board shall also have the authority to enter into any depositors' agreements for the purpose of reorganizing or rehabilitating any state or national bank in which state funds are deposited, and for the purpose of transferring the assets, in whole or in part, of any such state or national bank to any other banking institution existing or to be formed, when, in the judgment of the board, the interests of the state will be promoted thereby, and upon condition that no right of the state to preferred payment be waived, and that the sureties on the depository bond, or so many thereof as in the opinion of the board are sufficient therefor, in writing consent to such participation on behalf of the state of West Virginia and agree that their liability as surety shall not in any way be affected thereby. The treasurer shall furnish said board of public works, and the president and minority leader of the
Senate and the speaker and minority leader of the House of Delegates, not later than the tenth of each month, a statement showing the balances on the last day of the preceding month in each state depository.

§12-1-7. Apportionment of time deposits.

It shall be the duty of the treasurer to keep at all times in the state depositories in each county an equitable share of all of the state funds placed in time deposits. The total assessment of all property in each county for the preceding fiscal year shall be taken as the basis for such apportionment. If at any time the depositories of any county or counties in any senatorial district do not have sufficient bonds to cover their share of such time deposits, the treasurer shall prorate the surplus among all the other counties in said district having sufficient bonds. Nothing in this section shall be construed as requiring the sinking funds and interest mentioned in section eight, article three, chapter thirteen of this code to be apportioned under the provisions of this section, but the same shall be deposited as provided in said section eight.
§12-1-9. Transfer of funds for emergency purposes; checks for disbursement of certain tax moneys.

Subject to applicable banking regulations or state law, the treasurer may transfer funds for emergency purposes whenever actually needed to pay the warrants drawn by the auditor upon the treasury or to equalize deposits, and he may draw checks upon any state depository for disbursement of the tax moneys collected by the state from the public utility companies for the counties, districts and municipalities. All checks drawn for transfer of funds shall have printed or stamped on the face of same “for transfer of funds only”.

§12-1-10. Treasurer to keep accounts with depositories.

The treasurer shall keep in his office a record showing the account of each depository, under which account entry shall be made showing the amount and date of each deposit, the amount and date of each withdrawal, and the balance on deposit.

§12-1-14. When treasurer may invest temporary surplus and sell such investments; depositories without the state.

Whenever the receipts of the treasury shall exceed the
funds needed for current operational purposes and shall
create a temporary surplus, and it appears that such sur-
plus will continue for as much as one month, the state
treasurer, with the approval in writing of the board of
public works, may invest such surplus in bonds or obliga-
tions of the United States or for which both principal and
interest are guaranteed by the United States, or general
obligation bonds of the state of West Virginia or any
political subdivision thereof; and the state treasurer may
thereafter, with like approval of the board of public
works, sell such investments in whole or in part, when-
ever it appears that a present need for such funds exists.
Whenever the funds in the treasury exceed the amount
for which depositories within the state have qualified, or
the depositories within the state which have qualified are
unwilling to receive larger deposits, the board of public
works may designate depositories without the state, and
when such depositories without the state shall have qual-
ified by giving bond of the character provided by sub-
division (a) (surety company) or subdivision (c) (col-
lateral) as prescribed in section two of this article, the
23 state treasurer may deposit funds therein in like manner
24 as funds are deposited in depositories within the state
25 under this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompkins
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Henry W. Byerly
Clerk of the Senate

C. L. Blankenship
Clerk of the House of Delegates

Howard Causey
President of the Senate

H. Lehan White
Speaker House of Delegates

The within approved this the 14th day of February, 1968.

Hewett C. Smith
Governor
PRESENTED TO THE
GOVERNOR
Date 2/1/68
Time 3:07 P.M.