

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1968

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ENROLLED

SENATE BILL NO. 120

(By Mr. Brotherton)

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PASSED February 8, 1968

In Effect Jan Passage

FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 2-16-68

# 120

**ENROLLED**  
**Senate Bill No. 120**

(By MR. BROTHERTON)

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[Passed February 8, 1968; in effect from passage.]

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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 <sup>e</sup> 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

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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  
2     and national banks in West Virginia which shall serve  
3     as depositories for the deposit of state funds. Any such  
4     state or national bank desiring to be designated as a state  
5     depository shall, upon request to such board, be designated  
6     as a state depository, if such bank meets the requirements

7 set forth in this chapter. Any such designation shall be  
8 for a period of one year.

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

1 Before allowing any money to be deposited with any  
2 depository the board of public works shall require such  
3 depository to give bond with good security to be approved  
4 by said board, in the penalty of not less than ten thousand  
5 dollars, payable to the state of West Virginia, conditioned  
6 for the prompt payment, whenever lawfully required, of  
7 any state money, or part thereof, that may be deposited  
8 with such depository, or of any accrued interest on de-  
9 posits, which bond shall expire on the thirtieth day of  
10 April next ensuing: *Provided*, That a surety bond ac-  
11 cepted by the board of public works pursuant to subdivi-  
12 sion (a) of this section, shall not expire, if, prior to April  
13 first of each year, such depository shall file with the board  
14 of public works, a certificate issued by the surety on such  
15 bond, certifying that such bond will remain in full force  
16 and effect for the period of one year subsequent to April  
17 thirtieth of the year in question.

18 The board of public works may accept as surety on, or  
19 for the faithful performance of the conditions of such  
20 bonds, the following:

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

26 (b) Persons or corporations which are duly authorized  
27 to become surety for another, who are owners of property

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(by 76)* 28 situate in this state of an aggregate assessed valuation ~~of~~ *of*

29 shown on the current assessment books equal to the  
30 penalty of the bond plus all liens or charges against such  
31 property, and all bonds so secured are here designated as  
32 personal bonds. Any person or any officer of any corpora-  
33 tion becoming or offering to become surety on a personal  
34 bond may be required by the board of public works or the  
35 state treasurer to furnish to said board under oath in  
36 writing such data and documentary evidence as to the  
37 financial status of such surety as such board may request.  
38 Any person who shall knowingly make a false statement

39 in the matter of supplying the information so requested  
40 as aforesaid shall be guilty of a misdemeanor, and upon  
41 conviction thereof shall be fined not less than twenty-five  
42 dollars nor more than five hundred dollars, and may,  
43 at the discretion of the court, be confined in the county  
44 jail for not exceeding one year;

45 (c) Collateral security consisting of bonds of the  
46 United States, and its possessions, of the federal land  
47 banks, of the home owners' loan corporation, of the state  
48 of West Virginia or of any county, district or municipality  
49 of this state or other bonds or securities approved by the  
50 said board of public works. All bonds so secured are here  
51 designated as collaterally secured bonds. Withdrawal or  
52 substitution of any collateral pledged as security for the  
53 performance of the conditions of such bond may be per-  
54 mitted with the approval in writing of the treasurer of the  
55 state of West Virginia and three other members of the  
56 board of public works who shall report such withdrawal  
57 or substitution at the next meeting of the board. All de-  
58 pository bonds shall be recorded by the secretary of state  
59 in a book kept in his office for the purpose, and a copy of

60 such record, certified by him, shall be prima facie evidence  
61 of the execution and contents of such bond in any suit or  
62 legal proceeding. All collateral securities shall be de-  
63 livered to or deposited for the account of the treasurer  
64 of the state of West Virginia, and in the event actual  
65 possession of said securities shall be delivered to the  
66 treasurer, then he shall receipt therefor to the owner  
67 thereof. The said treasurer and his bondsmen shall be  
68 liable to any person for any loss by reason of the em-  
69 bezzlement or misapplication of said securities by said  
70 treasurer or any of his official employees, and for the loss  
71 thereof due to his negligence or the negligence of any of  
72 his official employees; and such securities shall be de-  
73 livered to the owner thereof when liability under the  
74 bond which they are pledged to secure has terminated.  
75 The treasurer may permit the deposit under proper re-  
76 ceipt of such securities with one or more banking institu-  
77 tions within or without the state of West Virginia and  
78 may contract with any such institution for safekeeping  
79 and exchange of any such collateral securities, and may  
80 prescribe the rules and regulations for handling and pro-

81 tecting the same, subject to the approval of the board of  
82 public works.

**§12-1-5. Demand deposits; time deposits; payment of interest  
on time deposits; time for payment of interest; con-  
tracts concerning time deposits, open account; with-  
drawal of funds placed on time deposit, open  
account.**

1 As much money as may be needed for current opera-  
2 tional purposes of the state government, as determined by  
3 the state treasurer, shall be maintained at all times in the  
4 state treasury in cash or in demand deposits with banks  
5 designated as depositories in accordance with the pro-  
6 visions of section one of this article. The state treasurer  
7 shall apportion such demand deposits among such de-  
8 positories, giving due consideration to: (1) The activity of  
9 the various accounts maintained therein, (2) the reason-  
10 able value of the banking services rendered or to be  
11 rendered the state by such depositories, and (3) the value  
12 and importance of such deposits to the economy of the  
13 communities and the various areas of the state affected  
14 thereby.

15     The state treasurer shall place in time deposits such  
16 state funds as are not needed for current operational pur-  
17 poses within a ninety-day period and as are not invested  
18 in accordance with the provisions of section fourteen of  
19 this article. For the purposes of this article, the term  
20 "time deposits" shall mean either (1) time deposits, open  
21 account, or (2) certificates of deposit. Notwithstanding  
22 the foregoing provisions of this paragraph, certificates of  
23 deposit may be purchased by the state treasurer only  
24 with the approval of the board of public works. A de-  
25 pository shall not be required to accept demand deposits  
26 in order to receive time deposits, nor shall a depository  
27 be required to accept time deposits in order to receive de-  
28 mand deposits.

29     The board of public works shall require the payment of  
30 interest by all state depositories on all state funds de-  
31 posited therein in time deposits. The annual rate of  
32 interest on funds placed in time deposits, open account,  
33 and the annual rate of interest on funds placed in certifi-  
34 cates of deposit shall be determined by the treasurer and  
35 may be adjusted by him from time to time according to

36 the then prevailing rate of interest but shall be applied  
37 uniformly to all time deposits made on any given date,  
38 but any such rate shall not exceed the maximum per-  
39 mitted by applicable banking regulations or state law.  
40 The interest on time deposits, open account, shall be paid  
41 at such intervals as may be agreed upon by and between  
42 the state depository and the state treasurer. The state  
43 treasurer is authorized to execute contracts with the  
44 state depositories covering time deposits, open account.  
45 Subject to applicable banking regulations or state law,  
46 in the event of an emergency, the state treasurer is au-  
47 thorized to withdraw all or any portion of the funds  
48 placed on time deposit, open account on shorter notice  
49 than the contract provides and to forfeit such amount of  
50 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.**

1 The board of finance is hereby abolished. On and after  
2 the effective date of this section, the board of public

3 works shall have the authority to establish any rules and  
4 regulations that it may deem necessary or expedient to  
5 protect the interests of the state, its depositories and tax-  
6 payers.

7 The board shall also have the authority to enter into  
8 any depositors' agreements for the purpose of reorganizing  
9 or rehabilitating any state or national bank in which state  
10 funds are deposited, and for the purpose of transferring  
11 the assets, in whole or in part, of any such state or na-  
12 tional bank to any other banking institution existing or  
13 to be formed, when, in the judgment of the board, the  
14 interests of the state will be promoted thereby, and upon  
15 condition that no right of the state to preferred payment  
16 be waived, and that the sureties on the depository bond,  
17 or so many thereof as in the opinion of the board are  
18 sufficient therefor, in writing consent to such participation  
19 on behalf of the state of West Virginia and agree that  
20 their liability as surety shall not in any way be affected  
21 thereby. The treasurer shall furnish said board of public  
22 works, and the president and minority leader of the

23 Senate and the speaker and minority leader of the House  
24 of Delegates, not later than the tenth of each month, a  
25 statement showing the balances on the last day of the  
26 preceding month in each state depository.

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

1 It shall be the duty of the treasurer to keep at all times  
2 in the state depositories in each county an equitable share  
3 of all of the state funds placed in time deposits. The total  
4 assessment of all property in each county for the pre-  
5 ceding fiscal year shall be taken <sup>as</sup> ~~on~~ the basis for such ap-  
6 portionment. If at any time the depositories of any county  
7 or counties in any senatorial district do not have sufficient  
8 bonds to cover their share of such time deposits, the  
9 treasurer shall prorate the surplus among all the other  
10 counties in said district having sufficient bonds. Nothing  
11 in this section shall be construed as requiring the sink-  
12 ing funds and interest mentioned in section eight, article  
13 three, chapter thirteen of this code to be apportioned  
14 under the provisions of this section, but the same shall be  
15 deposited as provided in said section eight.

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(by FE)

**§12-1-9. Transfer of funds for emergency purposes; checks for  
disbursement of certain tax moneys.**

1 Subject to applicable banking regulations or state law,  
2 the treasurer may transfer funds for emergency purposes  
3 whenever actually needed to pay the warrants drawn by  
4 the auditor upon the treasury or to equalize deposits, and  
5 he may draw checks upon any state depository for dis-  
6 bursement of the tax moneys collected by the state from  
7 the public utility companies for the counties, districts  
8 and municipalities. All checks drawn for transfer of  
9 funds shall have printed or stamped on the face of same  
10 "for transfer of funds only".

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

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

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

1 Whenever the receipts of the treasury shall exceed the

2 funds needed for current operational purposes and shall  
3 create a temporary surplus, and it appears that such sur-  
4 plus will continue for as much as one month, the state  
5 treasurer, with the approval in writing of the board of  
6 public works, may invest such surplus in bonds or obliga-  
7 tions of the United States or for which both principal and  
8 interest are guaranteed by the United States, or general  
9 obligation bonds of the state of West Virginia or any  
10 political subdivision thereof; and the state treasurer may  
11 thereafter, with like approval of the board of public  
12 works, sell such investments in whole or in part, when-  
13 ever it appears that a present need for such funds exists.

14 Whenever the funds in the treasury exceed the amount  
15 for which depositories within the state have qualified, or  
16 the depositories within the state which have qualified are  
17 unwilling to receive larger deposits, the board of public  
18 works may designate depositories without the state, and  
19 when such depositories without the state shall have quali-  
20 fied by giving bond of the character provided by sub-  
21 division (a) (surety company) or subdivision (c) (col-  
22 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 Tompau*  
Chairman Senate Committee

*Clayton C. Davidson*  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

*Howard Meyer*  
Clerk of the Senate

*Ed Blankenship*  
Clerk of the House of Delegates

*Howard Carson*  
President of the Senate

*H. Latham White*  
Speaker House of Delegates

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

*Walter C. Smith*  
Governor



PRESENTED TO THE  
GOVERNOR

Date 2/12/68

Time 3:02 P.M.

RECEIVED

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SECRETARY OF STATE  
STATE CAPITAL BUILDING  
RICHMOND, VIRGINIA