WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

ENROLLED

HOUSE BILL No. 1883

(By Delegate Wiedebusch)

Passed March 7, 1986

In Effect Ninety days from Passage
AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nineteen, relating to creating a county linked deposit program; definitions; legislative findings; authority to invest; limitations on investment in linked deposits; loan cap; applications for loan; priorities; loan package; acceptance or rejection of loan package; deposit agreement; rate of loan; certification and monitoring of compliances; reports; liability of the county commission or its agent; and penalties.

Be it enacted by the Legislature of West Virginia:

That chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nineteen, to read as follows:

ARTICLE 19. COUNTY LINKED DEPOSIT PROGRAM.

§7-19-1. Definitions.

1. (a) “Agent” means the county commission or, where created, the county economic development program or the county economic development agency.

2. (b) “Eligible lending institution” means a financial institution that is eligible to make commercial loans, is a public depository of county funds and agrees to
participate in the linked deposit program.

(c) "Eligible small business" means any business which employs fifty or fewer employees or has gross annual receipts of two million dollars or less.

(d) "Linked deposit" means a certificate of deposit placed by the agent with an eligible lending institution at up to and including five percent below current market rates, as determined and calculated by the agent, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided for by this article, to eligible small businesses at up to and including five percent below the present borrowing rate applicable to each specific business at the time of the deposit of county funds in the institution.

§7-19-2. Legislative findings.

The Legislature finds that many small businesses throughout the state are experiencing economic stagnation or decline, that high interest rates have caused small businesses in this state to suffer disproportionately in profitability and competition and that such high interest rates have fostered a serious increase in unemployment. The linked deposit program provided for by this article is intended to provide a countywide availability of lower cost funds for lending purposes that will materially contribute to the economic revitalization of this state. Accordingly, it is declared to be the public policy of the state to create through the linked deposit program an availability of lower-cost funds to inject needed capital into the business community, sustain or improve business profitability and protect the jobs of citizens of this state. This program is created to supplement the state linked deposit program.

§7-19-3. Authority to invest; limitations on investment in linked deposits; loan cap.

County commissions are hereby authorized and empowered, in addition to all other powers and duties now conferred by law upon county commissions, to invest in linked deposits: Provided, That at the time of placement of the linked deposit not more than ten
percent of the county's total investment portfolio is so
invested. The amount of a reduced rate loan may not
exceed ten thousand dollars per job created or preserved
as determined by the agent, subject to the availability
of funds. This program is created to supplement the
state linked deposit program and the agent is authorized
to coordinate county linked deposits with the state
program.

§7-19-4. Applications for loan; priorities; loan package.

(a) An eligible lending institution that desires to
receive a linked deposit shall accept and review
applications for loans from eligible small businesses.
The lending institution shall apply all usual lending
standards to determine the credit worthiness of each
eligible small business making an application.

(b) An eligible small business shall certify on its loan
application that the reduced rate loan will be used
exclusively to create new jobs or preserve existing jobs
and employment opportunities. A reduced rate loan
shall not be used to refinance existing debt, unless such
action is done to prevent bankruptcy. Whoever know-
ingly makes a false statement concerning such applica-
tion shall be prohibited from participating in the linked
deposit loan program and shall be subject to the
penalties provided for in section eight of this article.

(c) In considering which eligible small businesses
should receive reduced rate loans, the eligible lending
institution shall give priority to businesses in areas
which are economically depressed and to the number of
jobs to be created or preserved by the receipt of such
loan.

(d) The eligible lending institution shall forward to
the agent a linked deposit loan package, in the form and
manner prescribed by the agent. The package shall
include such information as required by the agent,
including the amount of the loan requested and the
number of jobs to be created or sustained by each
eligible small business. The institution shall certify that
each applicant is an eligible small business, and shall
certify the present borrowing rate applicable to each
§7-19-5. Acceptance or rejection of loan package; deposit agreement.

(a) The agent may accept or reject a linked deposit loan package or any portion thereof, based on the ratio of county funds to be deposited to jobs to be sustained or created.

(b) Upon acceptance of the linked deposit loan package or any portion thereof, the agent may place certificates of deposit with the eligible lending institution at up to and including five percent below current market rates as determined by the agent. When necessary, the agent may place certificates of deposit prior to acceptance of a linked deposit loan package.

(c) The eligible lending institution shall enter into a deposit agreement with the agent, which agreement shall include requirements necessary to carry out the purposes of this article. Such requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked deposit and shall include provisions for the certificates of deposit to be placed for up to two-year maturities that may be renewed for up to an additional two years. Interest shall be paid at the times determined by the agent.

§7-19-6. Rate of loan; certification and monitoring of compliance; reports.

(a) Upon the placement of a linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible small business listed in the linked deposit loan package required in subsection (d), section four of this article, and in accordance with the deposit agreement required by subsection (c), section five of this article. The loan shall be at up to and including five percent below the present borrowing rate applicable to each business. A certification of compliance with this section shall be
required of the eligible lending institution in the form
and manner prescribed by the agent.

(b) The agent shall take any and all steps necessary
to implement the linked deposit program and monitor
compliance of eligible lending institutions and eligible
small businesses. The agent, the state treasurer and the
industrial development authority shall notify each other
at least quarterly of the names of the businesses
receiving financial assistance from their respective
programs.

By the first day of January, April, July and October
of each year, the agent shall report on the linked deposit
program from the preceding calendar quarter to the
county commission. The report shall set forth the linked
deposits made by the county under the program during
the quarter and shall include information regarding the
nature, terms and amounts of the loans upon which the
linked deposits were based and each small business to
which a loan was made.

§7-19-7. Liability of the county commission or its agent.

Neither the county commission or its agent is liable
in any manner to any eligible lending institution for
payment of the principal or interest on the loan to an
eligible small business. A delay in payment or default
on the part of an eligible small business does not in any
manner affect the deposit agreement between the
eligible lending institution and the county.

§7-19-8. Penalties for violation of article.

Any violation of this article shall be deemed a
misdemeanor and any person convicted thereof shall be
fined not less than one hundred nor more than five
hundred dollars and imprisoned in the county jail not
less than one month nor more than one year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams
Chairman Senate Committee

Floyd Fullen
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Field C. Welch
Clerk of the Senate

Donald L. Vogt
Clerk of the House of Delegates

Ralph Forman
President of the Senate

Joseph P. Alight
Speaker of the House of Delegates

The within ................. approved ............... this the ......... day of ................., 1986.

Auch A. Pannell
Governor