WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3313

(By Delegates Cann, Varner, Klempa, Craig and Manchin)

Passed April 10, 2009

In Effect Ninety Days from Passage
AN ACT to amend and reenact §18-9-6 of the Code of West Virginia, 1931, as amended, relating to allowing depositories and banks to meet the security requirement necessary to be a depository for boards of education by providing a letter of credit from a federal home loan bank.

Be it enacted by the Legislature of West Virginia:

That §18-9-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 9. SCHOOL FINANCES.

§18-9-6. Transfer of moneys; appointment of treasurer; bonding of treasurer; approval of bank accounts; authority to invest; security for funds invested.
The sheriff of each county shall remit to the board of education all moneys in his or her possession held on behalf of the county board of education, whether or not deposited in a bank or depository, unless the sheriff has been designated treasurer of the board of education as provided in this section. The transfer of funds shall be made as of the balances on hand on June 30 of the year in which the board of education appoints a treasurer other than the sheriff, and shall be completed no later than August 1 of that year. The transfer shall be adjudged complete and final upon the approval of the sheriff's official settlement for the fiscal year ending on June 30 of the year in which the board of education appoints a treasurer other than the sheriff, and any minor adjustment made necessary by the actually known figures shall also be made at that time. All balances in all county school funds at the end of each month after June 30 of the year in which the board of education appoints a treasurer other than the sheriff shall be transferred by the sheriff to the county board of education not later than the tenth day of the following month.

On or before the first Monday in May each county board of education shall upon recommendation of the county superintendent appoint a treasurer for the board. The treasurer is the fiscal officer of the board, or an employee commonly designated as the person in charge of the financial affairs of the county board, or the county sheriff: Provided, That once a board of education has appointed a treasurer other than the sheriff, the sheriff may not be named treasurer of the board in a subsequent year. Upon appointment this person shall be titled and referred to as treasurer of the board of education. For the faithful performance of this duty, the treasurer shall execute a bond, to be approved by the board of education, in the penalty to be fixed by the board of education, not to exceed the amount of school funds which it is estimated the treasurer will handle within any period of two months. The premium on the bond shall be paid by the board of education.
The board of education may open a bank account, or accounts, as required to adequately and properly transact the business of the district in a depository, or banks, within the county. The depositories, or banks, shall provide bond to cover the maximum amount to be deposited at any one time. However, the county board of education may, in lieu of such bond, accept as security for money deposited letters of credit from a federal home loan bank, securities of the United States, or of a state, county, district or municipal corporation, or federal agency securities: **Provided,** That a banking institution is not required to provide a bond or security in lieu of bond if the deposits accepted are placed in certificates of deposit meeting the following requirements: (1) The funds are invested through a designated state depository selected by the county board of education; (2) the selected depository arranges for the deposit of the funds in certificates of deposit in one or more banks or savings and loan associations wherever located in the United States, for the account of the county board of education; (3) the full amount of principal and accrued interest of each certificate of deposit is insured by the Federal Deposit Insurance Corporation; (4) the selected depository acts as custodian for the county board of education with respect to such certificates of deposit issued for the county’s account; and (5) at the same time that the county board of education’s funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits from customers of other financial institutions wherever located in the United States equal to or greater than the amount of the funds invested by the county board of education through the selected depository. One hundred ten percent of the face or par value of the securities may not be less than the sum hereinbefore specified as the amount to be named in the bond in lieu of which the securities are accepted, or the county board of education may accept the securities as partial security to the extent of their face value for the money so deposited and
require bond for the remainder of the full amount
hereinbefore specified, to be named in the bond, and, in the
bond so required, the acceptance of securities as partial
security and the extent thereof shall be set forth. The
hypothecation of the securities shall be by proper legal
transfer as collateral security to protect and indemnify by
trust any and all loss in case of any default on the part of the
banking institution in its capacity as depository as aforesaid.
All such securities shall be delivered to or deposited for the
account of the county board of education, and withdrawal or
substitution thereof may be permitted from time to time upon
approval by the county board of education by order of record,
but the collateral security shall be released only by order of
record of the county board of education when satisfied that
full and faithful accounting and payment of all the moneys
has been made under the provisions hereof. In the event
actual possession of the hypothecated securities is delivered
to the county board of education, it shall make ample
provision for the safekeeping thereof, and the interest thereon
when paid shall be turned over to the banking institution, so
long as it is not in default as aforesaid. The county board of
education may permit the deposit under proper receipt of
such securities with one or more banking institutions within
the State of West Virginia and may contract with any such
institution for safekeeping and exchange of any such
hypothecated securities, and may prescribe the rules for
handling and protecting the same.

On and after July 1, 1973, all levies and any other school
moneys received by the sheriff and paid to the treasurer of
the county board of education shall be deposited in these
accounts, and all proper payments from such funds shall be
made by the designated depository or bank upon order or
draft presented for payment and signed by the duly
authorized signatories of the board of education: Provided,
That in determining the depository for board of education
funds a board member who has a pecuniary interest in a bank within the county shall not participate in the determination of the depository for such funds.

If it is considered that sufficient funds are on hand in any account at any one time which may be more than are normally required for the payment of incurred expenses, the funds in the amount so considered available may be invested by the treasurer of the county board with the West Virginia Municipal Bond Commission, or in guaranteed certificates of deposit issued by the depository or bank, or other guaranteed investments such as treasury bills, treasury notes or certificates of deposit issued by either the United States government or a banking institution in which federal or state guarantees are applicable. Interest earned in such investments is to be credited to the fund from which the moneys were originally available.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within bill approved this the 30th day of April, 2009.

Governor