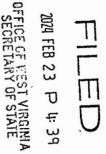
WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED



Committee Substitute

for

House Bill 4801

BY DELEGATES CRISS, BARNHART, WESTFALL, HOTT AND

ESPINOSA

[Passed February 8, 2024; in effect ninety days from

passage.]

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1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section. 2 designated §12-1-1b; to amend and reenact §12-1-5 of said code; and to amend and reenact §12-1B-5 and §12-1B-7 of said code, all relating generally to the banking and 3 4 contractual authority of the State Treasurer's Office; setting forth prohibited terms and 5 conditions in State Treasurer contracts consistent with general restrictions on other state 6 contracts; authorizing rulemaking by the State Treasurer; and requiring advance 7 announcement by the State Treasurer of the West Virginia Security for Public Deposits 8 Program commencement date by publication in the State Register.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-1b. Prohibited clauses in State Treasurer contracts.

(a) Any term or condition in any contract entered into by the State Treasurer shall be void
 ab initio to the extent that it requires the State Treasurer to agree to or abide by a term and
 condition prohibited in §5A-3-62 of this code.

(b) No official, employee, agent, or representative of the State Treasurer may contravene this section, and no oral or written expression of consent to any term or condition declared void ab initio by this section, or signature on a contract, may be deemed as such. Any contract that contains a term or condition declared void ab initio by this section shall otherwise be enforceable as if it did not contain such term or condition. All contracts entered into by the State Treasurer, except for contracts with another government, shall be governed by West Virginia law notwithstanding any term or condition to the contrary.

§12-1-5. Limitation on amount on deposit; dedicated method; rules.

(a) The amount of state funds on deposit in any depository in excess of the amount insured
 by an agency of the federal government shall be secured by a deposit guaranty bond issued by
 a valid bankers' surety company or by other securities acceptable to the State Treasurer, pursuant

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to the dedicated method, in an amount of at least 102 percent of the amount on deposit. The
value of the collateral shall be determined by the State Treasurer.

(b) The State Treasurer may propose rules for legislative approval in accordance with the
provisions of §29A-3-1 *et seq.* of this code and may promulgate emergency rules pursuant to the
provisions of §29A-3-15 of this code as are necessary to effectuate the provisions of this section.
(c) For the purposes of this section, the term "dedicated method" means the securing of
public deposits without accepting the contingent liability for the losses of public deposits of other
designated state depositories as provided in this section.

ARTICLE 1B. WEST VIRGINIA SECURITY FOR PUBLIC DEPOSITS ACT.

§12-1B-5. West Virginia Security for Public Deposits Program authorized.

1 The West Virginia Security for Public Deposits Program is hereby authorized. The State 2 Treasurer shall announce the commencement of the West Virginia Security for Public Deposits 3 Program, at which time the requirements of this article become effective, by publishing a notice 4 in the State Register at least 30 days prior to commencement of the program. The Treasurer shall 5 implement and administer the West Virginia Security for Public Deposits Program under the terms 6 and conditions required by this article.

§12-1B-7. Powers and duties of the State Treasurer; rules; charges; contracts.

In order to implement and administer the Public Deposits Program, the State Treasurer
 may:

3 (1) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et*4 *seq.* of this code and may promulgate emergency rules pursuant to the provisions of §29A-3-15
5 of this code as are necessary to effectuate the provisions of this article, including, but not limited
6 to, the following:

7 (A) The terms and conditions under which public deposits must be secured;

8 (B) The method for determining the pooled collateral requirements based on the balance
9 of public funds held in the designated state depository in excess of funds insured by an agency

of the federal government and the evaluation of the overall financial condition of the designatedstate depository;

(C) The collateral requirements and collateral pledging level for each designated state
 depository as determined to be prudent under the circumstances and based on nationally
 recognized financial rating services information and established financial performance guidelines;
 (D) The securities or instruments that constitute eligible collateral under this article and
 the percentage of face value or market value of such securities or instruments that can be used

17 to secure public deposits;

18 (E) Reporting requirements for designated state depositories;

(F) The process for a designated state depository to withdraw from the pooled method of
securing public deposits and instead be governed by the procedures for securing such deposits
by the dedicated method or other approved method permitted in this code, consistent with the
primary purpose of protecting public deposits;

(G) The process for determining when a default or insolvency has occurred, or is likely to
 occur, and the actions necessary for the protection, collection, compromise, or settlement of any
 claim arising in case of default or insolvency;

26 (H) Requirements for the payment of losses by pooled or dedicated methods; and

(1) Any and all guidelines necessary and proper for the full and complete administration ofthis article;

(2) Charge and collect any necessary administrative fees, fines, penalties, and service
 charges in connection with the Public Deposits Program or any agreement, contract, or
 transaction pursuant to this article;

(3) Execute contracts, agreements, or other instruments for goods and services necessary
to effectuate this article, including agreements with designated state depositories or any other
entity. Selection of these services is not subject to §5A-3-1 *et seq.* of this code; and

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- 35 (4) Perform all other lawful actions necessary to effectuate the provisions of this article,
- 36 subject to applicable state and federal law.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

..... President of the Senate

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PRESENTED TO THE GOVERNOR

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