

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Committee Substitute**

**for**

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**for**

**Senate Bill 262**

BY SENATORS PHILLIPS, GRADY, MARTIN, MAYNARD,

KARNES, HAMILTON, AND WOODRUM

[Originating in the Committee on Finance; reported on

January 24, 2022]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §12-1-15, relating generally to financial institutions engaged in boycotts of  
3 energy companies; defining terms; authorizing the State Treasurer to prepare, maintain,  
4 and publish a list of financial institutions engaged in boycotts of energy companies;  
5 requiring the Treasurer to post the list on his or her website and submit the list to certain  
6 public officials; setting forth sources of information on which the Treasurer may rely on  
7 preparing the list; requiring the Treasurer to send written notice to a financial institution of  
8 its inclusion on the list; requiring the Treasurer to remove a financial institution from the  
9 list if it presents information demonstrating that it is not engaged in a boycott of energy  
10 companies; authorizing the Treasurer to exclude financial institutions on the list from the  
11 selection process for state banking contracts; authorizing the Treasurer to refuse to enter  
12 into a banking contract with a financial institution on the list; authorizing the Treasurer to  
13 require, as a term of a banking contract, an agreement by the financial institution not to  
14 engage in a boycott of energy companies; and limiting liability of public officials, public  
15 employees, members or employees of financial institutions for actions taken in compliance  
16 with the new code section and exempting the Investment Management Board.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. STATE DEPOSITORIES.**

### **§12-1-15. Financial institutions engaged in boycotts of energy companies.**

1 (a) Definitions. – For the purposes of this section:

2 (1) “Banking contract” means a contract entered into by the Treasurer and a financial  
3 institution pursuant to this chapter, to provide banking goods or services to a spending unit.

4 (2) “Boycott of energy companies” means without an ordinary business purpose, refusal  
5 to deal with a company, termination of business activities with a company, or another action that  
6 is intended to penalize, inflict economic harm on, or limit commercial relations with a company  
7 because the company:

8 (A) Engages in the exploration, production, utilization, transportation, sale, or  
9 manufacturing of fossil fuel-based energy;

10 (B) Engages in the exploration, production, utilization, transportation, sale, or  
11 manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental  
12 standards beyond applicable federal and state law; or

13 (C) Does business with a company that engages in the exploration, production, utilization,  
14 transportation, sale, or manufacturing of fossil fuel-based energy.

15 (3) "Company" means any sole proprietorship, organization, association, corporation,  
16 partnership, joint venture, limited partnership, limited liability partnership, limited liability company,  
17 or other entity or business association, including all wholly owned subsidiaries, majority-owned  
18 subsidiaries, parent companies, or affiliates of those entities or business associations, that exist  
19 for the purpose of making profit.

20 (4) "Financial institution" means a bank, national banking association, non-bank financial  
21 institution, a bank and trust company, a trust company, a savings and loan association, a building  
22 and loan association, a mutual savings bank, a credit union, or a savings bank.

23 (5) "Ordinary business purpose" includes any purpose directly related to promoting the  
24 financial success or stability of a financial institution, the purpose of mitigating risk to a financial  
25 institution, or the purpose of limiting liability of a financial institution.

26 (6) "Restricted financial institution" means a financial institution included in the most  
27 recently updated restricted financial institution list.

28 (7) "Restricted financial institution list" means the list that the Treasurer is authorized to  
29 prepare, maintain, and publish pursuant to subsection (b) of this section.

30 (8) "Treasurer" refers to the West Virginia State Treasurer.

31 (b) *Restricted financial institutions list.* –

32           (1) The Treasurer is authorized to prepare and maintain a list of financial institutions that  
33 are engaged in a boycott of energy companies. A list prepared pursuant to this subsection shall  
34 be known and cited as the restricted financial institution list.

35           (2) In preparing the restricted financial institution list, the Treasurer may review and rely  
36 on publicly available information regarding financial institutions, including public statements by a  
37 company, information published or provided by nonprofit organizations, research firms,  
38 international organizations, and other state or federal governmental entities.

39           (3) Upon preparation of the restricted financial institution list, the Treasurer must comply  
40 with the following requirements:

41           (A) The Treasurer must publicly post the restricted financial institution list on the  
42 Treasurer's website and submit a copy of the list to the Governor, the President of the Senate,  
43 and the Speaker of the House of Delegates.

44           (B) The Treasurer must update the restricted financial institution list annually, or more  
45 often as the Treasurer considers necessary.

46           (C) For each newly identified restricted financial institution, the Treasurer must send a  
47 written notice informing the institution of its restricted financial institution status and that it may be  
48 ineligible to enter into, or remain in, banking contracts with the State of West Virginia. If, following  
49 the receipt of the written notice, the restricted financial institution provides information  
50 demonstrating, to the Treasurer's satisfaction, that it is not engaged in a boycott of energy  
51 companies or that it has ceased all activity that boycotts energy companies, the Treasurer must  
52 remove the company from the restricted financial institution list.

53           (c) *Treasurer authority with regard to restricted financial institutions. –*

54           (1) In selecting a financial institution to enter into a banking contract, the Treasurer is  
55 authorized to disqualify restricted financial institutions from the competitive bidding process or  
56 from any other official selection process.

57           (2) The Treasurer is authorized to refuse to enter into a banking contract with a restricted  
58 financial institution based on its restricted financial institution status.

59           (3) The Treasurer is authorized to require, as a term of any banking contract, an  
60 agreement by the financial institution not to engage in a boycott of energy companies for the  
61 duration of the contract.

62           (d) *Limitation on liability.* – With respect to actions taken in compliance with this section, a  
63 public agency, public official, public employee, or member or employee of a financial institution is  
64 immune from liability.

65           (e) *Applicability to the West Virginia Investment Management Board.* – The provisions of  
66 this section do not apply to the duties, actions, and transaction of the West Virginia Investment  
67 Management Board set forth as in §12-6-1 *et seq.* of this code.