

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 455

BY SENATORS NELSON, TARR, AND AZINGER

[Originating in the Committee on Banking and

Insurance; reported January 30, 2024]

1 A BILL 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
3 reenact §12-1B-5 of said code, all relating generally to the banking and contractual
4 authority of the State Treasurer's Office and the West Virginia Security for Public Deposits
5 Program; setting forth prohibited terms and conditions in State Treasurer contracts
6 consistent with general restrictions on other state contracts; providing that the State
7 Treasurer may propose rules for legislative approval to implement the West Virginia
8 Security for Public Deposits Program; and requiring advance announcement by the State
9 Treasurer of the commencement of the West Virginia Security for Public Deposits Program
10 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.

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

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

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

1 (a) The amount of state funds on deposit in any depository in excess of the amount insured
2 by an agency of the federal government shall be secured by a deposit guaranty bond issued by

3 a valid bankers' surety company or by other securities acceptable to the State Treasurer, pursuant
4 to the dedicated method ~~as defined in §12-1B-4 of this code~~, in an amount of at least 102 percent
5 of the amount on deposit. The value of the collateral shall be determined by the State Treasurer.

6 (b) The State Treasurer shall ~~shall~~ may propose rules for legislative approval in accordance
7 with the provisions of §29A-3-1 *et seq.* of this code and may promulgate emergency rules
8 pursuant to the provisions of §29A-3-15 of this code as are necessary to effectuate the provisions
9 of this section.

10 (c) For the purposes of this section, "dedicated method" means the securing of public
11 deposits without accepting the contingent liability for the losses of public deposits of other
12 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 ~~established~~ authorized.

1 The West Virginia Security for Public Deposits Program is hereby ~~established~~ authorized.
2 The State Treasurer shall announce the commencement of the West Virginia Security for Public
3 Deposits Program, at which time the requirements of this article become effective, by publishing
4 a notice in the State Register at least 30 days prior to commencement of the program. The
5 Treasurer shall implement and administer the West Virginia Security for Public Deposits Program
6 under the terms and conditions required by this article. ~~The Public Deposits Program shall be~~
7 ~~operable on or before March 1, 2024.~~