

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 826

By Senator Nelson

[Introduced February 16, 2024; referred
to the Committee on Banking and Insurance]

19 bond.

20 (b) An action shall lie on the bond at the instance of the county commission, or the sheriff,
21 for the recovery of any money deposited in the depository, upon failure or default of the depository
22 to fully and faithfully account for and pay over any and all public moneys deposited by the sheriff
23 and of all interests earned and accrued thereon as required by this article. A bond may not be
24 accepted by the county commission until it has been submitted to the prosecuting attorney, and
25 certified by him or her to be in due and legal form, and conformable to the provisions of this article,
26 which certificate shall be endorsed thereon: *Provided*, That the county commission may, in lieu of
27 the bond provided hereinbefore, accept as security for money deposited as aforesaid, interest-
28 bearing securities of the United States, or of a state, county, district or municipal corporation, or of
29 the federal land banks, or endorsed county and district warrants of the county in which the
30 depository is located, or letters of credit of the federal land banks, or federal home loan banks, or
31 any other letters of credit approved by the treasurer; the face value of which securities may not be
32 less than the sum hereinbefore specified as the amount to be named in the bond in lieu of which
33 the securities are accepted; or the county commission may accept the securities as partial security
34 to the extent of their face value for the money so deposited, and require bond for the remainder of
35 the full amount hereinbefore specified, to be named in the bond, and in the bond so required, the
36 acceptance of securities as partial security, and the extent thereof, shall be set forth: *Provided*,
37 *however*, That a banking institution is not required to provide a bond or security in lieu of bond if the
38 public deposits accepted are placed in certificates of deposit meeting the following requirements:

39 (1) The funds are invested through a designated state depository selected by the county;

40 (2) The selected depository arranges for the deposit of the funds in certificates of deposit in
41 one or more banks or savings and loan associations wherever located in the United States, for the
42 account of the county;

43 (3) The full amount of principal and accrued interest of each certificate of deposit is insured
44 by the Federal Deposit Insurance Corporation;

45 (4) The selected depository acts as custodian for the county with respect to such
46 certificates of deposit issued for the county's account; and

47 (5) On the same date the public moneys are redeposited by the public depository, the
48 public depository may, in its sole discretion, choose whether to receive deposits, in any amount,
49 from other banks, savings banks, or savings and loan associations: Provided, That a banking
50 institution is not required to provide a bond or security in lieu of bond for deposits with any duly
51 designated state depository that is selected and authorized by the county commission to arrange
52 for the redeposit of the funds through a deposit placement program that meets the following
53 conditions:

54 (1) On or after the date that the county commission funds are received, the selected
55 depository:

56 (A) Arranges for the redeposit of the funds into deposit accounts in one or more federally
57 insured banks or savings and loan associations that are located in the United States; and

58 (B) Serves as custodian for the county commission with respect to the funds deposited into
59 such accounts.

60 (2) County Commission funds deposited in a selected depository in accordance with this
61 section and held at the close of business in the selected depository in excess of the amount
62 insured by the Federal Deposit Insurance Corporation shall be secured in accordance with §12-1-
63 4 of this code.

64 (3) The full amount of the funds of the county commission redeposited by the selected
65 depository into deposit accounts in banks or savings and loan associations pursuant to this
66 subsection, plus accrued interest, if any, shall be insured by the Federal Deposit Insurance
67 Corporation.

68 (4) On the same date that the funds of the county commission are redeposited pursuant to
69 this subsection, the selected depository receives an amount of deposits from customers of other
70 financial institutions through the direct placement program that are equal to the amount of the

71 county commission's funds redeposited by the selected depository.

72 (c) The hypothecation of the securities shall be by proper legal transfer as collateral
73 security to protect and indemnify by trust any and all loss in case of any default on the part of the
74 banking institution in its capacity as depository as aforesaid. All the securities shall be delivered to
75 or deposited for the account of the county commission, and withdrawal or substitution thereof may
76 be permitted from time to time upon approval by the county commission by order of record, but the
77 collateral security shall be released only by order of record of the county commission when
78 satisfied that full and faithful accounting and payment of all the moneys has been made under the
79 provisions hereof. In the event actual possession of the hypothecated securities are delivered to
80 the county commission, it shall make ample provision for the safekeeping thereof and the interest
81 thereon when paid shall be turned over to the banking institution, so long as it is not in default as
82 aforesaid. The county commission may permit the deposit under proper receipt of the securities
83 with one or more banking institutions within or without the State of West Virginia and may contract
84 with any institution for safekeeping and exchange of any hypothecated securities and may
85 prescribe the rules for handling and protecting the same.

NOTE: The purpose of this bill is to harmonize the treatment of reciprocal deposit arrangements to satisfy security for public deposits from county commissions, municipal corporations, and boards of education. Current code sections relating to public deposits from municipal corporations and school boards provide two separate authorizations for depository institutions to employ reciprocal deposit arrangements to satisfy each security requirement. This bill will allow depository institutions to serve county commissions uniformly to municipal corporations and school boards.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.