# 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]

A BILL to amend and reenact §7-6-2 of the Code of West Virginia, 1931, as amended, relating to allowing depository institutions to provide Federal Deposit Insurance Corporation coverage to county commissions through reciprocal deposit arrangements regardless of the form the account takes; and providing criteria that depository institutions must meet to satisfy the exemption to provide a bond or security in lieu of bond for such arrangements.

Be it enacted by the Legislature of West Virginia:

### ARTICLE 6. COUNTY DEPOSITORIES.

#### §7-6-2. Bond of depositories.

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(a) No designation is binding on any county, nor shall any public money be deposited thereunder in excess of the amount insured by an agency of the federal government, until the banking institution designated executes a bond with good and sufficient sureties, to be accepted and approved by the county commission, payable to the State of West Virginia, in a sum as the county commission shall direct, and which may not be less than the amount of the deposit that exceeds the amount insured by an agency of the federal government in the depository at any one time. The bond shall be executed by at least four resident freeholders as sureties owning in the aggregate unencumbered real estate having an assessed valuation thereon equal to the penalty of the bond, or by a fidelity or indemnity company authorized to do business within the state, satisfactory to, and acceptable by the county commission, and having not less than \$600,000 capital; and the bond shall be conditioned for the receipt, safekeeping, and payment over of all money which may be deposited in or come under the custody of the banking institution designated a county depository under the provisions hereof, together with the interest thereon at the rate specified by this article; and the bond shall be further conditioned for the faithful performance, by the banking institution so designated, of all the duties imposed by this article upon a depository of public moneys: Provided, That the clerk of the county commission shall keep a record of each surety on all personal bonds given as hereinbefore provided and the clerk shall notify the county commission of every recorded conveyance of real estate made by any surety on said personal

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- (b) An action shall lie on the bond at the instance of the county commission, or the sheriff, for the recovery of any money deposited in the depository, upon failure or default of the depository to fully and faithfully account for and pay over any and all public moneys deposited by the sheriff and of all interests earned and accrued thereon as required by this article. A bond may not be accepted by the county commission until it has been submitted to the prosecuting attorney, and certified by him or her to be in due and legal form, and conformable to the provisions of this article, which certificate shall be endorsed thereon: Provided, That the county commission may, in lieu of the bond provided hereinbefore, accept as security for money deposited as aforesaid, interestbearing securities of the United States, or of a state, county, district or municipal corporation, or of the federal land banks, or endorsed county and district warrants of the county in which the depository is located, or letters of credit of the federal land banks, or federal home loan banks, or any other letters of credit approved by the treasurer; the face value of which 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 commission 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: Provided, however, That a banking institution is not required to provide a bond or security in lieu of bond if the public 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;
- (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;
- (3) The full amount of principal and accrued interest of each certificate of deposit is insured 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: <u>Provided</u> , 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

county commission's funds redeposited by the selected depository.

(c) 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 the securities shall be delivered to or deposited for the account of the county commission, and withdrawal or substitution thereof may be permitted from time to time upon approval by the county commission by order of record, but the collateral security shall be released only by order of record of the county commission 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 are delivered to the county commission, 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 commission may permit the deposit under proper receipt of the securities with one or more banking institutions within or without the State of West Virginia and may contract with any institution for safekeeping and exchange of any hypothecated securities and may 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.