

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2538

FISCAL
NOTE

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WILSON, BYRD, CAMPBELL AND QUEEN

[Introduced January 21, 2019; Referred
to the Committee on Banking and Insurance then the
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §12-1-14, relating to providing banking services for medical cannabis; defining
3 terms; authorizing Treasurer to competitively bid for financial institutions to provide
4 services; providing for disposition of penalties collected pursuant to the Act; authorizing
5 Treasurer to hold funds outside treasury until permitted to transfer money to state main
6 disbursement account; authorizing Treasurer to charge fees for providing services;
7 creating the Medical Cannabis Fund; requiring ERP Board to ensure wOASIS
8 accommodate deposits under the Act; establishing that action under article not unlawful;
9 and provide that the state will defend and indemnify those providing services under said
10 section.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-14. Banking Services for Medical Cannabis.

1 (a) The Legislature finds and declares that the inability to provide banking services needed
2 to collect and remit the fees, penalties, and taxes authorized under the West Virginia Medical
3 Cannabis Act has delayed the implementation and is precluding access by the patients and
4 investment by the persons and entities interested in providing services under the Act. The purpose
5 of this section is to provide a solution to the banking problems encountered by the state in
6 connection with the Act.

7 (b) The following words when used in this section shall have the following meanings,
8 unless the context clearly indicated otherwise,

9 “Act” means the West Virginia Medical Cannabis Act in §16-1-1 et seq. of this code;

10 “Financial institution” means a bank, national banking association, a bank and trust
11 company, a trust company, a savings and loan association, a building and loan association, a
12 mutual savings bank, a credit union or a savings bank;

13 “Selected financial institution” means a financial institution selected by the Treasurer under

14 this section to receive, invest, and disperse the fees, penalties, and taxes authorized under the
15 Act;

16 “Treasurer” means the State Treasurer.

17 (c) The Treasurer shall select by competitive bid one or more financial institutions to
18 provide banking services for the fees, penalties, and taxes collected under the Act and is
19 authorized to pay any fees charged by a selected financial institution. A contract awarded by the
20 Treasurer under the section may be extended as long as the Treasurer determines an extension
21 is in the best interest of the state. A financial institution selected shall meet the requirements of
22 this chapter for a state depository.

23 (d) The Medical Cannabis Program Fund authorized in §16A-9-2 of this code all of this
24 code shall receive all civil penalties collected under §16A-12-8 of this code. Any methods of
25 receipt, remittance, payment, or transfer authorized by the Treasurer are acceptable under the
26 Act.

27 (e) The Treasurer’s office may authorize the Medical Cannabis Program Fund held in one
28 or more accounts at a selected financial institution outside the treasury until the Treasurer is able
29 to transfer moneys to the main disbursement account of the state. Moneys in the Medical
30 Cannabis Program Fund may be invested by a financial institution or the West Virginia Board of
31 Treasury Investments and earnings shall accrue to the fund.

32 (f) The Treasurer may charge fees for providing banking services under the Act, including
33 without limitation, expenses incurred, oversight, and compliance. The Treasurer’s Medical
34 Cannabis Fund is created to receive all fees charged by the Treasurer. The Treasurer may
35 authorize the Treasurer’s Medical Cannabis Fund held in an account at a selected financial
36 institution outside the treasury until the Treasurer is able to transfer moneys to the main
37 disbursement account of the state. Moneys in the Treasurer’s Medical Cannabis Fund shall be
38 expended for the expenses incurred, oversight and compliance, and may be invested by a
39 financial institution or the West Virginia Board of Treasury Investments with earnings accruing to

40 the fund.

41 (g) The Enterprise Resource Planning Board shall configure wvOASIS to allow deposit in,
42 investing moneys in, and making payments from the accounts established by the Treasurer at a
43 selected financial institution.

44 (h)(1) Actions taken under and in accordance with the section and the act shall not be
45 considered unlawful under any provision of this code.

46 (2) The State of West Virginia shall defend the Treasurer and the state officers and
47 employees involved in cannabis-related banking services against any claims, charges, liabilities
48 or expenses and shall indemnify and hold harmless the Treasurer in any state employee involved
49 in cannabis-related banking services provided within the scope of their duties or employment in
50 accordance with the Act, including without limitation, defense in any state, federal, or local court
51 and payment of the amount of any judgment obtained, damages, legal fees and expenses, and
52 any other expenses incurred.

NOTE: The purpose of this bill is to provide banking services for services provided under the West Virginia Medical Cannabis Act.

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