

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4801**

BY DELEGATES CRISS, BARNHART, WESTFALL, HOTT AND

ESPINOSA

[Passed February 8, 2024; in effect ninety days from  
passage.]



1 AN ACT 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 and §12-1B-7 of said code, all relating generally to the banking and  
4 contractual authority of the State Treasurer's Office; setting forth prohibited terms and  
5 conditions in State Treasurer contracts consistent with general restrictions on other state  
6 contracts; authorizing rulemaking by the State Treasurer; and requiring advance  
7 announcement by the State Treasurer of the West Virginia Security for Public Deposits  
8 Program commencement date 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, in an amount of at least 102 percent of the amount on deposit. The  
5 value of the collateral shall be determined by the State Treasurer.

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

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

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

### **§12-1B-7. Powers and duties of the State Treasurer; rules; charges; contracts.**

1 In order to implement and administer the Public Deposits Program, the State Treasurer  
2 may:

3 (1) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et*  
4 *seq.* of this code and may promulgate emergency rules pursuant to the provisions of §29A-3-15  
5 of this code as are necessary to effectuate the provisions of this article, including, but not limited  
6 to, the following:

7 (A) The terms and conditions under which public deposits must be secured;

8 (B) The method for determining the pooled collateral requirements based on the balance  
9 of public funds held in the designated state depository in excess of funds insured by an agency

10 of the federal government and the evaluation of the overall financial condition of the designated  
11 state depository;

12 (C) The collateral requirements and collateral pledging level for each designated state  
13 depository as determined to be prudent under the circumstances and based on nationally  
14 recognized financial rating services information and established financial performance guidelines;

15 (D) The securities or instruments that constitute eligible collateral under this article and  
16 the percentage of face value or market value of such securities or instruments that can be used  
17 to secure public deposits;

18 (E) Reporting requirements for designated state depositories;

19 (F) The process for a designated state depository to withdraw from the pooled method of  
20 securing public deposits and instead be governed by the procedures for securing such deposits  
21 by the dedicated method or other approved method permitted in this code, consistent with the  
22 primary purpose of protecting public deposits;

23 (G) The process for determining when a default or insolvency has occurred, or is likely to  
24 occur, and the actions necessary for the protection, collection, compromise, or settlement of any  
25 claim arising in case of default or insolvency;

26 (H) Requirements for the payment of losses by pooled or dedicated methods; and

27 (I) Any and all guidelines necessary and proper for the full and complete administration of  
28 this article;

29 (2) Charge and collect any necessary administrative fees, fines, penalties, and service  
30 charges in connection with the Public Deposits Program or any agreement, contract, or  
31 transaction pursuant to this article;

32 (3) Execute contracts, agreements, or other instruments for goods and services necessary  
33 to effectuate this article, including agreements with designated state depositories or any other  
34 entity. Selection of these services is not subject to §5A-3-1 *et seq.* of this code; and

35           (4) Perform all other lawful actions necessary to effectuate the provisions of this article,  
36 subject to applicable state and federal law.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect ninety days from passage.

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within is ..... this the.....  
Day of ....., 2024.

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*Governor*