

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER**

ADMINISTRATIVE LAW DIVISION

FILED

JUL 3 2 20 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #3

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: State Treasurer's Office TITLE NUMBER: 112CSR7

CITE AUTHORITY W.V. Code Section 12-1-2

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 7

TITLE OF RULE BEING PROPOSED: Selection Of State Depositories
For Receipt Accounts.

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

DATE: July 3, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Treasurer's Office

Selection Of State Depositories

LEGISLATIVE RULE TITLE: For Receipts Accounts. (112CSR7)

1. **Authorizing statute(s) citation** W.V. Code Section 12-1-2

2. a. **Date filed in State Register with Notice of Hearing**

May 30, 1997

b. **What other notice, including advertising, did you give of the hearing?**

Mailed notification of hearing to: W.V. Governor, Auditor, President of the Senate Speaker of the House of Delegates, Secretary of Administration, and all W.V. banks.

c. **Date of Hearing(s)** June 30, 1997

d. **Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.**

Attached No comments received

e. **Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)**

July 3, 1997

f. **Name and phone number(s) of agency person(s) to contact for additional information:**

Anoop K. Bhasin (304) 341-0704

State Capitol Complex, Rm E-122, Charleston, WV 25305

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation: N/A

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____

SUMMARY OF PROPOSED RULE

TITLE 112

LEGISLATIVE RULE

STATE TREASURER'S OFFICE

SERIES 7

SELECTION OF STATE DEPOSITORIES FOR RECEIPT ACCOUNTS

This rule implements the provisions of W. Va. Code §12-1-2, wherein the State Treasurer's Office is required to select depositories for receipt accounts.

STATEMENT OF CIRCUMSTANCES OF PROPOSED RULE

TITLE 112

LEGISLATIVE RULE

STATE TREASURER'S OFFICE

SERIES 7

SELECTION OF STATE DEPOSITORIES FOR RECEIPT ACCOUNTS

This agency approved rule is needed to comply with provisions of W. Va. Code embodied in Senate Bill 563, passed during the 1997 Regular Legislative Session, effective from passage on April 12, 1997. Senate Bill 563 expanded some of the State Treasurer's functions and duties and transferred several functions and duties of the West Virginia State Board of Investments to the State Treasurer's Office. Without this rule, the public interest can be substantially harmed, in that no state depositories could be selected to receive state moneys.

This rule implements the provisions of W. Va. Code §12-1-2, wherein the State Treasurer's Office is required to select depositories for receipt accounts. This rule carries out the legislative intent, as stated in the above-cited code section, so that the selection of receipt depositories will enable the state to obtain the most efficient service at the lowest possible cost.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Selection of State Depositories for Receipt Accounts (112CSR7)

Type of Rule: X Legislative Interpretive Procedural

Agency: State Treasurer's Office

Address: State Capitol, Room E-145
Charleston, West Virginia 25305

Contact Person: Anoop Bhasin - Telephone (304) 341-0704

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	HEREAFTER
ESTIMATED TOTAL COST	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

Bids are currently the accepted method of procurement and are a part of the normal expenses of the office.

3. Objectives of these rules:

Comply with Senate Bill 563 as passed by the Legislature during the 1997 Legislative Session.

Rule Title: Selection of State Depositories for Receipt Accounts (112GSR7)

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

Provide fair, equitable competition for state contracts for state depositories/receipts accounts.

C. Economic Impact on Citizens/Public at Large.

N/A

Date: 5/30/97

Signature of Agency Head or Authorized Representative

John Perdue

TITLE 112
LEGISLATIVE RULE
STATE TREASURER'S OFFICE

FILED

JUL 3 2 20 PM '97

SERIES 7
SELECTION OF STATE DEPOSITORIES FOR RECEIPT ACCOUNTS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§112-7-1. General.

1.1. Scope. -- These rules implement the provisions of W. Va. Code §12-1-2, wherein the State Treasurer's Office is required to select depositories for receipt accounts.

1.2. Authority. -- W. Va. Code §12-1-2.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. General Purpose. -- The purpose of these rules is to carry out the legislative intent, as stated in the above-cited code section, so that the selection of receipt depositories will enable the state to obtain the most efficient service at the lowest possible cost.

§112-7-2. Definitions.

For purposes of these rules, unless a different meaning is clearly required by the context:

2.1. "Agency" means and includes any department, board, commission, division, branch office or other separate unit of State government, and any officer or employee thereof, who or which collects moneys due the State;

2.2. "Code" means the 1931 code of West Virginia, as amended;

2.3. "Compensating balance" means the cash balance which the State will maintain with a depository to compensate the depository for its services;

2.4. "Receipt accounts" means those accounts in which are deposited moneys belonging to or due the State of West Virginia or any agency, thereof; and

2.5. "Treasurer" means the West Virginia State Treasurer.

§112-7-3. Selection of Depositories for Receipt Accounts.

The Treasurer recognizes that not only the services but the location of receipts depositories are of major concern to the agencies whose collections are to be deposited. Accordingly, the Treasurer in cooperation with the affected agencies shall ensure that receipts depositories are conveniently located for the agencies and are able to serve their needs.

§112-7-4. Procedures.

Each collecting agency shall notify the Treasurer of its anticipated collections and deposits including

the extent of activity of its accounts, size of accounts, frequency of deposits, special services that may be needed and other information requested by the Treasurer. The agency also may submit its preferred choice or a list of preferred choices of banks. If the agency submits such preferred choice or list, it shall submit therewith a statement of the reasons for its preference. However, the Treasurer is not required to select the bank or banks preferred by the agency. The Treasurer shall review the information submitted by the agency and shall consider:

- 4.1. The activity of the various accounts;
- 4.2. The reasonable value of the banking services to be rendered;
- 4.3. The value and importance of such deposits to the economy of the communities and the various areas of the State affected; and
- 4.4. The recommended depository's proposed fee schedule as required by Subsection 5.1 of these rules.

§112-7-5. Compensation.

5.1. Method of Compensation - Compensation to the depository for its services shall be made by means of either of the following three methods:

5.1.1. A compensating balance computed by the Treasurer on a monthly basis using the average collected balance. The depository shall submit proposed fee schedules for types of services rendered by the depository, including but not limited to services such as wire transfers, checks cashed, returned checks, and cash handling. The proposed fee schedules shall be subject to review and approval by the Treasurer. If the fee schedules are approved by the Treasurer, a contract shall be entered into with the depository for the furnishing of the required services. If the fee schedules are not approved by the Treasurer, the Treasurer may negotiate satisfactory revised fee schedules with the depository or select another depository. The monthly total fee for the services rendered shall be converted to a compensating balance by using the average 90-day U. S. Treasury bill rate (bond equivalent yield).

The following example will illustrate how the compensating balance will be computed and applied:

- 1) Assume that the average 90-day U. S. Treasury bill rate for the affected month is .10;
- 2) The multiplier for annualization is twelve; and the fee for the services, if rendered on a fee basis, would equal \$560.0 for the affected month. Accordingly, the compensating balance to be maintained for the next month is \$67,200 derived as follows:

$$\begin{array}{rcl} \underline{\$560} \times 12 & & \\ .10 & = & \$67,200 \end{array}$$

If any overcompensation or undercompensation occurs during a given month, the compensating balance for the following month shall be appropriately adjusted in order to fairly compensate the depository for services rendered.

5.1.2. A compensating balance derived by accumulated receipts in the receipts account and periodically transferring such balance to a central depository designated by the Treasurer. This method of compensation shall be used for depositories whose receipts are not of sufficient volume to justify use of the method in subdivision (1) of this section.

Upon Treasurer approval, a contract shall be entered into with the depository for the furnishing of

required services.

5.1.3. The Treasurer may authorize the bank to invoice the Treasurer. In such case, the Treasurer will pay the invoice with a State warrant.

5.2. Compensation for Ancillary Services - The Treasurer may, from time to time, require the depository to furnish certain ancillary services in the course of providing the basic service for which it was selected. For example, the Treasurer may specify that a depository for receipts shall furnish analytical reports. The Treasurer may also specify that the depository shall be compensated for the cost of furnishing services on a flow-through basis. In such event, the bank shall be compensated for such service by one of the three methods described in Subsection 5.1 of this Rule.

**STATEMENT CONCERNING PUBLIC HEARING CONDUCTED JUNE 30, 1997,
AT 10 A.M. AT THE STATE CAPITOL COMPLEX CONFERENCE CENTER,
CONCERNING PROPOSED LEGISLATIVE RULES
DESIGNATED TITLE 112, SERIES 3, 4, 6, 7, 8, 9 AND 10
FOR THE STATE TREASURER'S OFFICE**

Hearing times. The above titled public hearing was opened at 10:09 a.m. after registering all attendees and adjourned at 10:16 a.m.

Attendees. The attendees were: from One Valley Bank in Charleston, Mr. Daniel E. Lanier; and from the State Treasurer's Office, Mr. Jim McMillon, Mr. Anoop K. Bhasin, Mr. Jerry Simpson, Ms. Ratha Boggess, Mr. John Shumate, Mr. Bryan Archer, and Ms. Glenda Probst.

Hearing proceedings. Jim McMillon conducted the hearing. He indicated that notice of this public hearing was filed May 30, 1997 with the Secretary of State and the Legislative Rule Making Review Committee concerning the above titled rules. He asked if anyone had any written comments to submit concerning any of the above titled series of rules. There were no written comments. He asked if there were any verbal or oral comments concerning the above titled series of rules. Mr. Lanier offered only two oral comments (to Series 6 rule, "Selection of State Depositories for Disbursement Accounts Through Competitive Bidding") listed below. There were no other oral comments regarding any of the other series of rules.

Oral comments received and responses to the oral comments concerning Series 6 rule. This is a summary of the oral comments received and responses thereto:

Comment No. 1. Section 3.5 states in part: "...On the date and time set for the bid opening, the bids shall be publicly opened and read aloud..." Will the identity of each bidder be disclosed as part of the reading?

Response to Comment No. 1. Yes, as well as the amount and any other pertinent information.

Comment No. 2. Section 3.2 states in part: "...At least twenty-five (25) days prior to the date on which bids will be opened, the Treasurer shall mail to every eligible depository notice that bids will be invited on one or more designated disbursement accounts..." Is it possible that this notification will be given more than 25 days in advance?

Response to Comment No.2. Yes. This section sets a minimum notification period. As a matter of practice, the notification may be more than 25 days in advance.

Amendments made/recorded and reasons. No amendments to any of the rules are proposed. Comments no. 1 and 2 to Series 6 rule, request an interpretation. It is believed that the responses to comments no. 1 and 2 adequately clarify/interpret the items without need for changes to the language.