

ARTICLE 1. STATE DEPOSITORIES.

§12-1-15. Financial institutions engaged in boycotts of energy companies.

1           (a) Definitions. – For the purposes of this section:

2           (1) “Banking contract” means a contract entered into by the Treasurer and a financial  
3 institution pursuant to this chapter, to provide banking goods or services to a spending unit.

4           (2) “Boycott of energy companies” means, ~~without an reasonable ordinary business~~  
5 purpose, the issuance of a public statement by a financial institution of its policy of refusal to  
6 transact new business with, or continue to provide financial services to all companies whose  
7 primary business operations involve the exploration, production, utilization, transportation, sale,

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10 or manufacturing of fossil fuel-based energy, or the issuance of a public statement of its intent  
11 to penalize, inflict economic harm on, or limit commercial relations with all companies because  
12 the companies:

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13 (A) Engage in the exploration, production, utilization, transportation, sale, or  
14 manufacturing of fossil fuel-based energy;

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15 (B) Engage in the exploration, production, utilization, transportation, sale, or  
16 manufacturing of fossil fuel-based energy and do not commit or pledge to meet environmental  
17 standards beyond applicable federal and state law; or

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18 (C) Do business with companies that engage in the exploration, production, utilization,  
19 transportation, sale, or manufacturing of fossil fuel-based energy.

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20 (3) “Company” means any sole proprietorship, organization, association, corporation,  
21 partnership, joint venture, limited partnership, limited liability partnership, limited liability  
22 company, or other entity or business association, including all wholly owned subsidiaries,  
23 majority-owned subsidiaries, parent companies, or affiliates of those entities or business  
24 associations, that exist for the purpose of making profit.

25 (4) “Financial institution” means a bank, national banking association, non-bank financial  
26 institution, a bank and trust company, a trust company, a savings and loan association, a building  
27 and loan association, a mutual savings bank, a credit union, or a savings bank.

28 (5) “Reasonable ~~Ordinary~~ business purpose” includes any purpose directly related to (i)  
29 promoting the financial success or stability of a financial institution, ~~the purpose of~~ (ii) mitigating

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42 risk to a financial institution, (iii) complying with legal or regulatory requirements or (iv) ~~the~~  
43 ~~purpose of limiting the~~ liability of a financial institution.

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44 (6) “Restricted financial institution” means a financial institution included in the most  
45 recently updated Restricted Financial Institution List.

46 (7) “Restricted Financial Institution List” means the list that the Treasurer is authorized to  
47 prepare, maintain, and publish pursuant to subsection (b) of this section.

48 (8) “Treasurer” refers to the West Virginia State Treasurer.

49 (b) Restricted Financial Institutions List. –

50 (1) The Treasurer is authorized to prepare and maintain a list of financial institutions that  
51 are engaged in a boycott of energy companies. A list prepared pursuant to this subsection shall  
52 be known and cited as the “Restricted Financial Institution List.”

53 (2) In preparing the Restricted Financial Institution List, the Treasurer may review and rely  
54 on the financial institution’s certification that it does not and has no future intent to boycott  
55 companies engaged in the fossil fuels energy market, as well as publicly available information  
56 regarding financial institutions, including public statements by financial institutions, publicly  
57 available data and information provided by independent, third-party nonprofit organizations,  
58 market data research firms, reputable international government organizations, and other state  
59 or federal governmental entities. The Treasurer may consider but may not take any adverse  
60 action against a financial institution based solely on statements or complaints by a company that

Deleted: a company,

Deleted: published or

64 is engaged in the exploration, production, utilization, transportation, sale, or manufacturing of  
65 fossil fuel-based energy.

66 (3) Upon preparation of the Restricted Financial Institution List, the Treasurer must  
67 comply with the following requirements:

68 (A) The Treasurer must publicly post the Restricted Financial Institution List on the  
69 Treasurer's website along with a statement that placement on the list is not an indication of the  
70 safety or soundness or of the operating condition of any institution identified on the list and  
71 submit a copy of the list to the Governor, the President of the Senate, and the Speaker of the  
72 House of Delegates.

Deleted: publicly post the Restricted Financial Institution List on the Treasurer's website and

73 (B) The Treasurer must update the Restricted Financial Institution List annually, or more  
74 often as the Treasurer considers necessary.

75 (C) For each newly identified restricted financial institution, the Treasurer must, within 10  
76 days of said identification, send a written notice informing the institution of its restricted financial  
77 institution status and that it may be ineligible to enter into, or remain in, banking contracts with  
78 the State of West Virginia. The Treasurer shall not publish the name of any financial institution  
79 on the Restricted Financial Institution List until after thirty days from the date said notice was  
80 mailed. Within 30 days of receipt of the written notice, a financial institution may appeal its  
81 identification as a restricted financial institution by certifying in writing to the Treasurer that it is  
82 not engaged in a boycott of energy companies or that it has ceased all activities constituting a  
83 boycott of energy companies. Immediately upon receipt of such certification, the Treasurer must  
84 remove the financial institution from the Restricted Financial Institution List. A financial

Deleted: If, following the receipt of the written notice, the restricted financial institution provides information demonstrating, to the Treasurer's satisfaction, that it is not engaged in a boycott of energy companies or that it has ceased all activity that boycotts energy companies,

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94 institution shall not be required to produce or disclose any data or information deemed private,  
95 confidential, privileged or otherwise protected by any state or federal law or legal precedent.

96 (c) Treasurer authority with regard to restricted financial institutions. –

97 (1) In selecting a financial institution to enter into a banking contract, the Treasurer is  
98 authorized to disqualify restricted financial institutions from the competitive bidding process or  
99 from any other official selection process.

100 (2) The Treasurer is authorized to refuse to enter into a banking contract with a restricted  
101 financial institution based on its restricted financial institution status.

102 (3) The Treasurer is authorized to require, as a term of any banking contract, an  
103 agreement by the financial institution not to engage in a boycott of energy companies for the  
104 duration of the contract.

105 (d) Limitation on liability. – With respect to actions taken in compliance with this section,  
106 a public agency, public official, public employee, or member or employee of a financial institution  
107 is immune from liability.

108

109 NOTE: The purpose of this bill is to authorize the Treasurer to restrict state banking  
110 contracts with financial institutions engaged in boycotts of energy companies.

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# WV Bankers

Advocacy Education Leadership

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February 7, 2022

The Honorable Riley Moore, Treasurer  
The West Virginia State Treasurers Office  
1900 Kanawha Boulevard  
Capitol Complex Building #1, Room E-145  
Charleston, West Virginia 25305

VIA ELECTRONIC MAIL

RE: SB 262 Relating generally to financial institutions engaged in boycotts of energy companies

Dear Treasurer Moore,

I write to advise that after much deliberation and debate, a significant majority of the 22 members of the West Virginia Bankers Association's Board of Directors has voted to oppose SB 262. We respect your efforts to protect our vital partners in the fossil fuel sector. Our members are hopeful that you also respect our concerns with the significant government intrusion this legislation presents into the day-to-day operations and private business affairs of West Virginia's banks and the dangerous legislative precedent this bill will establish. The abandonment of long proven principles of minimal government interference in private industry for the purpose of achieving a short-term policy initiative is bad policy. Passage of this bill is not in the best interests of our vital industries, our customers, our communities, or our state.

We recognize and appreciate the concessions you have made on SB 262. We regret that we were unable to reach an agreement on the language of this bill particularly with regard to the definition of "boycott of energy companies."

There is no question that the banking industry in West Virginia has always and will continue to support our highly valued customers and clients in the fossil fuel industry. We likewise welcome the opportunity and stand ready to serve any and all new industries that might come to call West Virginia home.

This has been a difficult conversation and decision for our members who range from the very smallest, most vital community banks up to some of our nation's largest financial institutions. Many different opinions and perspectives have been expressed. One key point upon which all banks agree is that the logic of this type of legislation is inherently and deeply flawed. Our banks must not be used as pawns to impose political strictures upon the free market regardless of the ideology behind it.

Our members have no interest in a high profile, public difference of opinion with the Office of the Treasurer or any of our hard-working legislators on this bill. Nor do we seek to alienate or offend our valued friends, families, clients, and customers in the fossil fuel industry. Our decision is neither personal nor political. It was made on principle.

We are prepared to move forward as necessary to communicate our concern and opposition to this legislation with leadership in the House and Senate and to members of the House Committee on Finance. As always, we are also happy to answer any questions regarding our opposition to the bill.

Once SB 262 has been resolved, we look forward to getting back to work with you and your staff on accomplishing our shared purpose of moving West Virginia forward with HB 4271.

On behalf of our entire industry, thank you for your time and attention, your cooperation now and in the future and for your passionate and dedicated service to our state.



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Sally Cline, President and CEO  
West Virginia Bankers Association  
3601 MacCorkle Avenue SE, Suite 100  
Charleston, WV 25304

Cc: Roger Hanshaw, Eric Householder, Vernon Criss, Brent Boggs, Larry Rowe, Bill Anderson, Jason Barrett, Joe Ellington, Paul Espinosa, Marty Gearhart, Dianna Graves, John Hardy, Sean Hornbuckle, John Hott, Gary Howell, Dean Jeffries, Daniel Linville, Zach Maynard, Dave Pethtel, Clay Riley, Matthew Rohrbach, Ruth Rowan, Joe Statler, Erica Storch, Chris Toney, John Williams

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 262**

BY SENATORS PHILLIPS, GRADY, MARTIN, MAYNARD,

KARNES, HAMILTON, AND WOODRUM

[Originating in the Committee on Finance; reported on

January 24, 2022]



CS for CS for SB 262

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §12-1-15, relating generally to financial institutions engaged in boycotts of  
3 energy companies; defining terms; authorizing the State Treasurer to prepare, maintain,  
4 and publish a list of financial institutions engaged in boycotts of energy companies;  
5 requiring the Treasurer to post the list on his or her website and submit the list to certain  
6 public officials; setting forth sources of information on which the Treasurer may rely on  
7 preparing the list; requiring the Treasurer to send written notice to a financial institution  
8 within a specified timeframe prior to its inclusion on the list; establishing required content  
9 of said notice; requiring the Treasurer to refrain from publishing the financial institution on  
10 the list upon receipt of certain information within a specified timeframe; requiring the  
11 Treasurer to remove a financial institution from the list if it presents information  
12 demonstrating that it is not engaged in a boycott of energy companies; preventing financial  
13 institutions from being compelled to produce certain information; authorizing the Treasurer  
14 to exclude financial institutions on the list from the selection process for state banking  
15 contracts; authorizing the Treasurer to refuse to enter into a banking contract with a  
16 financial institution on the list; authorizing the Treasurer to require, as a term of a banking  
17 contract, an agreement by the financial institution not to engage in a boycott of energy  
18 companies; and limiting liability of public officials, public employees, members or  
19 employees of financial institutions for actions taken in compliance with the new code  
20 section and exempting the Investment Management Board.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1. STATE DEPOSITORIES.**

**§12-1-15. Financial institutions engaged in boycotts of energy companies.**

1 (a) Definitions. – For the purposes of this section:  
2 (1) “Banking contract” means a contract entered into by the Treasurer and a financial  
3 institution pursuant to this chapter, to provide banking goods or services to a spending unit.

4 (2) "Boycott of energy companies" means without a reasonable business purpose, refusal  
5 to transact new business with, or continue to provide financial services to, or to take any other  
6 action intended to penalize or inflict economic harm on energy companies. ;

7 (3) "Energy companies" means all companies that:

8 (A) Engage in the exploration, production, utilization, transportation, sale, or  
9 manufacturing of fossil fuel-based energy;

10 (B) Does business with a company that engages in the exploration, production, utilization,  
11 transportation, sale, or manufacturing of fossil fuel-based energy.

12 (4) "Company" means any sole proprietorship, organization, association, corporation,  
13 partnership, joint venture, limited partnership, limited liability partnership, limited liability company,  
14 or other entity or business association, including all wholly owned subsidiaries, majority-owned  
15 subsidiaries, parent companies, or affiliates of those entities or business associations, that exist  
16 for the purpose of making profit.

17 (5) "Financial institution" means a bank, national banking association, non-bank financial  
18 institution, a bank and trust company, a trust company, a savings and loan association, a building  
19 and loan association, a mutual savings bank, a credit union, or a savings bank.

20 (6) "Reasonable business purpose" includes any purpose directly related to:

21 (A) Promoting the financial success or stability of a financial institution;

22 (B) Mitigating risk to a financial institution;

23 (C) Complying with legal or regulatory requirements; or

24 (D) Limiting liability of a financial institution.

25 (7) "Restricted financial institution" means a financial institution included in the most  
26 recently updated restricted financial institution list.

27 (8) "Restricted financial institution list" means the list that the Treasurer is authorized to  
28 prepare, maintain, and publish pursuant to subsection (b) of this section.

29 (9) "Treasurer" refers to the West Virginia State Treasurer.

Commented [CS1]: Comment 1: The WVSTO has concerns over changing the singular to "all companies" or to significantly altering this definition. The WVSTO finds it prudent to keep the definition as close to the definition being used in other states (i.e. Texas). The language flagged in Comment 8 should address concerns that complaints by a single company would be adequate to demonstrate a boycott.

Commented [LA2R1]: This definition remains extremely problematic for our banks. The fact that another state has used a definition does not itself make the definition valid and is not a good reason to impose a nonsensical definition upon the vital banking industry in West Virginia.

A single adverse decision against a single entity engaged in the stream of fossil fuel energy production is simply unacceptable to the banking industry. If this definition remains unchanged, every single such decision could trigger scrutiny by WVSTO and this law's costly and time-consuming notice/appeal process. Banks are being put in the onerous position of having to justify every decision they make in this regard to WVSTO.

The current definition also creates exposure and increases litigation risks for subjective and disparate enforcement. Whereas an actual boycott of ALL fossil fuel energy production companies as that word is understood in common parlance is much easier to prove and much harder to deny and therefore much less likely to require judicial intervention.

Commented [LA3]: This change reflects the industries ongoing objection to triggering adverse action by the WVSTO based upon a single adverse decision against a single energy company. WVSTO cannot know (... [1])

Deleted: deal with a company, termination of business activities with a company, or another action that is intended to penalize, inflict economic harm on, or (... [2])

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Deleted: (B) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or (... [3])

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Commented [CS4]: Comment 2: Per Loren draft

Commented [LA5R4]: Agreed.

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Commented [CS6]: Comment 3: Per Loren draft

Commented [LA7R6]: Agreed.

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54 (b) Restricted financial institutions list. –

55 (1) The Treasurer is authorized to prepare and maintain a list of financial institutions that  
56 are engaged in a boycott of energy companies. A list prepared pursuant to this subsection shall  
57 be known and cited as the restricted financial institution list.

58 (2) The Treasurer must publicly post the restricted financial institution list on the  
59 Treasurer's website and submit a copy of the list to the Governor, the President of the Senate,  
60 and the Speaker of the House of Delegates. A citation to this section of the Code and a brief  
61 summary of the purpose of the list must appear at the top of the list along with a disclaimer that  
62 inclusion on the list is not an indication of unsafe or unsound operating conditions of any bank nor  
63 any risk to consumer deposits.

64 (3) The Treasurer must update the restricted financial institution list annually, or more often  
65 as the Treasurer considers necessary.

66 (4) In preparing the restricted financial institution list, the Treasurer may review and rely  
67 on the financial institution's certification that it is not engaged in a boycott of energy companies  
68 and on reliable, accurate, publicly available information regarding financial institutions, including  
69 public statements by a financial institution and information published or provided by nonprofit  
70 organizations, research firms, international organizations, or state or federal governmental  
71 entities; Provided, That the Treasurer may consider but may not rely solely upon statements or  
72 complaints by a single energy company.

73 (5) Forty-five days prior to including a financial institution on the restricted financial  
74 institution list, the Treasurer must send a written notice to the institution containing the following  
75 information:

76 (A) That the Treasurer has determined that the financial institution is a restricted financial  
77 institution;

78 (B) That the financial institution will be placed on the restricted financial institution list in  
79 45 days unless, within 30 days following the receipt of the written notice, the restricted financial

Commented [CS8]: Comment 4: Reordered for clarity

Commented [LA9R8]: Agreed.

Commented [LA10]: I think this is self-explanatory based on my prior comments but I am amenable to discussing the specific language here if WVSTO is not satisfied with what I have proposed.

Commented [CS11]: Comment 5: Per Loren draft.

Commented [LA12R11]: It is critical that with this publication, WVSTO reassure consumers that inclusion on this list does not mean that deposits are at risk or that the listed institutions are operating in an unsafe or unsound condition.

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Commented [CS13]: Comment 6: Per Loren draft

Commented [LA14R13]: Agreed.

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Commented [CS16]: Comment 7: The WVSTO declines requested changes limiting the resources that the WVSTO can rely upon in making this determination. The Treasurer needs to exercise discretion and review all credible information available to him.

Commented [LA17R16]: We concur that WVSTO should rely only upon credible information. This provision does nothing to eliminate the inclusion of false or misleading information and provides no parameters for WVSTO to assess or evaluate the credibility of any given information.

There is also no provision within this bill that grants the listed financial institution the right to know what evidence the WVSTO has of a boycott, leaving the adversely affected bank defending against unknown, unsubstantiated information provided by unknown sources.

The use of the term "company" at the end of line 56 and "energy company" at the end of line 59 is problematic. In our proposed amendments we changed the "company" in line 56 to "financial institution" because we assumed perhaps incorrectly that WVSTO intends to use public statements by the financial institutions themselves against them. But by using the word "company" there, it seems we could...

Commented [CS18]: Comment 8: Per Loren draft

Commented [LA19R18]: Agreed.

Commented [CS20]: Comment 9: Period of notice and appeal prior to placement on restricted list, per ... [5]

Commented [LA21R20]: Agreed.

Commented [CS22]: Comment 10: See Comment 7

Commented [LA23R22]: What exactly is the standard of proof contemplated here for an institution to ... [6]

Commented [LA24R22]:

83 institution demonstrates that it is not engaged in a boycott of energy companies;

84 (C) That the restricted financial institution list is published on the Treasurer's website; and

85 (D) That the institution's placement on the list may render the institution ineligible to enter

86 into, or remain in, banking contracts with the State of West Virginia.

87 (6) Following a restricted financial institution's inclusion on the restricted financial

88 institution list, the Treasurer will remove the institution from the list if the institution demonstrates,

89 that it has ceased all activity that boycotts energy companies.

90 (7) A financial institution may not be compelled to produce or disclose any data or

91 information deemed confidential, privileged, or otherwise protected from disclosure by state or

92 federal law.

93 (c) *Treasurer authority with regard to restricted financial institutions.* –

94 (1) In selecting a financial institution to enter into a banking contract, the Treasurer is

95 authorized to disqualify restricted financial institutions from the competitive bidding process or

96 from any other official selection process.

97 (2) The Treasurer is authorized to refuse to enter into a banking contract with a restricted

98 financial institution based on its restricted financial institution status.

99 (3) The Treasurer is authorized to require, as a term of any banking contract, an

100 agreement by the financial institution not to engage in a boycott of energy companies for the

101 duration of the contract.

102 (d) *Limitation on liability.* – With respect to actions taken in compliance with this section, a

103 public agency, public official, public employee, or member or employee of a financial institution is

104 immune from liability.

105 (e) *Applicability to the West Virginia Investment Management Board.* – The provisions of

106 this section do not apply to the duties, actions, and transactions of the West Virginia Investment

107 Management Board as set forth in §12-6-1 *et seq.* of this code.

Deleted: provides information demonstrating

Deleted: , to the Treasurer's satisfaction.

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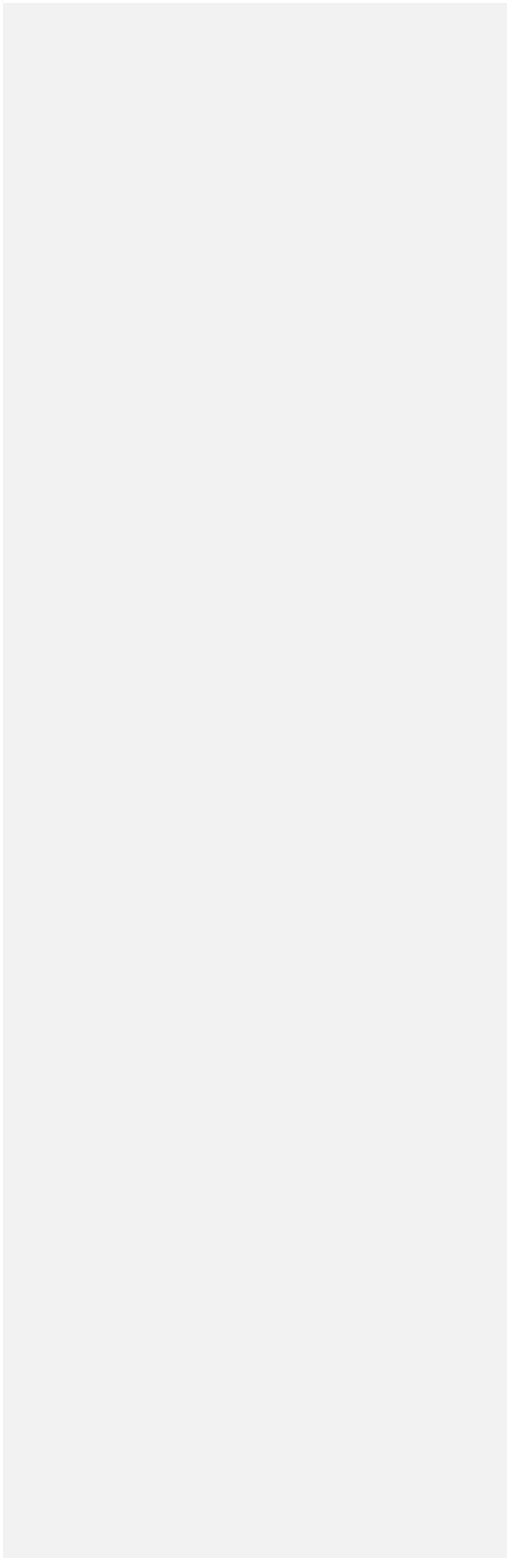
Commented [CS26]: Comment 11: Per Loren draft

Commented [LA27R26]: Agreed.

Commented [CS28]: Comment 12: Fixed a few typos

Commented [LA29R28]: Agreed,

CS for CS for SB 262



**Page 2: [1] Commented [LA3] Loren Allen 2/3/22 12:10:00 PM**

This change reflects the industries ongoing objection to triggering adverse action by the WVSTO based upon a single adverse decision against a single energy company. WVSTO cannot know the reasonable business purpose behind that decision until the notice has already been sent and the bank already placed on the defensive. To insist upon this definition merely because the Texas state legislature failed to see the absurdity in it doesn't reflect WVSTO's understanding of or relationship with the banking industry in West Virginia.

By defining and using the term "energy companies" we eliminate some of the confusion that we identified later in the bill and more accurately align the bill with its purpose of allowing the government to intervene into actual boycotts of the fossil fuel sector.

I also deleted the provision relating to a "pledge to meet environmental standards" because it is unclear what that means exactly and banks must not be made responsible to ascertain whether or not any given energy company has met any such new requirement of the government. If WVSTO wants energy companies to take a pledge than WVSTO must be responsible for the implementation and enforcement of that program with the energy companies and not superimpose that policing requirement on the banks.

**Page 2: [2] Deleted Loren Allen 2/3/22 11:38:00 AM**

**Page 2: [3] Deleted Loren Allen 2/3/22 11:44:00 AM**

**Page 3: [4] Commented [LA17R16] Loren Allen 2/1/22 3:20:00 PM**

We concur that WVSTO should rely only upon credible information.

This provision does nothing to eliminate the inclusion of false or misleading information and provides no parameters for WVSTO to assess or evaluate the credibility of any given information.

There is also no provision within this bill that grants the listed financial institution the right to know what evidence the WVSTO has of a boycott, leaving the adversely affected bank defending against unknown, unsubstantiated information provided by unknown sources.

The use of the term "company" at the end of line 56 and "energy company" at the end of line 59 is problematic. In our proposed amendments we changed the "company" in line 56 to "financial institution" because we assumed perhaps incorrectly that WVSTO intends to use public statements by the financial institutions themselves against them. But by using the word "company" there, it seems we could be back to relying upon a public statement by an adversely affected fossil fuel company which is in direct contravention of the inserted proviso beginning on line 58.

This bill also doesn't define "energy company" as that term is used in line 59. It is unclear to our banks whether or not an entity engaged in ancillary goods or services, ie. A trucking company that hauls gravel to a gas well pad would be considered an "energy company" for purposes of this law.

**Page 3: [5] Commented [CS20] Canterbury, Sarah 2/1/22 1:06:00 PM**

Comment 9: Period of notice and appeal prior to placement on restricted list, per conversation with bankers. Suggesting a longer time period and tweaks to the language.

**Page 3: [6] Commented [LA23R22] Loren Allen 2/1/22 3:11:00 PM**

What exactly is the standard of proof contemplated here for an institution to demonstrate that it is either not engaged in or has ceased all activity that "boycotts" energy companies? Use of the phrase "the Treasurer's satisfaction" is vague, ambiguous and inherently subjective. It also invites challenges based upon inequitable enforcement and disparate treatment of subject institutions?

What "information" does WVSTO expect to receive from a bank in defense of its decisions giving rise to these punitive measures in light of the definition "boycott?" Given the insistence upon the ability to

intervene in any single occurrence, banks will be forced to throw open their books to WVSTO and explain the often very complicated but no less reasonable business purposes behind every decision or in other instances, risk disclosure of private and protected financial information of the adversely affected customer. Since we all agree on the inserted provision of section (7) on line 77, a bank who makes an adverse decision based upon a customer's creditworthiness has no defense to the charge of a boycott because the bank cannot disclose that the customer is not creditworthy.

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# WEST VIRGINIA LEGISLATURE

## 2022 REGULAR SESSION

### Committee Substitute

for

### Committee Substitute

for

## Senate Bill 262

BY SENATORS PHILLIPS, GRADY, MARTIN, MAYNARD,

KARNES, HAMILTON, AND WOODRUM

[Originating in the Committee on Finance; reported on

January 24, 2022]

**Style Definition:** Normal,Default

**Style Definition:** Article Heading

**Style Definition:** Bill Number

**Style Definition:** Enacting Clause

**Style Definition:** References

**Style Definition:** Section Body

**Style Definition:** Title Page: Bill Prefix

**Style Definition:** Title Page: Origin

**Style Definition:** Title Page: Session

**Style Definition:** Title Section

**Style Definition:** No Spacing

**Style Definition:** Section Heading Old

**Style Definition:** Article Heading Old

**Style Definition:** Chapter Heading Old

**Style Definition:** Bill Number Old

**Style Definition:** Sponsors Old

**Style Definition:** References Old

**Style Definition:** Section Body Old

**Style Definition:** Title Section Old

**Style Definition:** Enacting Section Old

**Style Definition:** Part Heading Old

**Style Definition:** List Paragraph

**Style Definition:** Title Page: Origin Old

**Style Definition:** Enacting Clause Old

**Style Definition:** Salutation

**Style Definition:** Title Page: Session Old

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**Style Definition:** Comment Reference

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1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new  
2 ~~section~~article, designated ~~§12-1C-1-15,~~ §12-1C-2, §12-1C-3, §12-1C-4, §12-1C-5,  
3 §12-1C-6, and §12-1C-7, all relating generally to financial institutions engaged in boycotts  
4 of energy companies; defining terms; authorizing the State Treasurer to ~~prepare, maintain,~~  
5 ~~and~~ publish a list of financial institutions engaged in boycotts of energy companies;  
6 requiring the Treasurer to publicly post the list ~~on his or her website~~ and submit the list to  
7 certain public officials; requiring the list to contain certain information; ~~setting forth sources~~  
8 ~~of information on which the Treasurer may rely on preparing the list;~~ requiring the  
9 Treasurer to send written notice to a financial institution ~~within a specified timeframe~~ prior  
10 to its inclusion on the list; establishing required content of said ~~notice; requiring the~~  
11 ~~Treasurer to refrain from publishing the financial institution on the list upon receipt of~~  
12 ~~certain information within a specified timeframe~~written notice; requiring the Treasurer to  
13 remove a financial institution from the list if it presents information demonstrating that it is  
14 not engaged in a boycott of energy companies; preventing financial institutions from being  
15 compelled to produce certain information; ~~setting forth sources of information on which the~~  
16 ~~Treasurer may rely in preparing the list;~~ authorizing the Treasurer to exclude financial  
17 institutions on the list from the selection process for state banking contracts; authorizing  
18 the Treasurer to refuse to enter into a banking contract with a financial institution on the  
19 list; authorizing the Treasurer to require, as a term of a banking contract, an agreement  
20 by the financial institution not to engage in a boycott of energy companies; ~~and~~ limiting  
21 liability ~~of public officials, public employees, members or employees of financial institutions~~  
22 for actions taken in compliance with the new ~~code section~~article; and exempting the  
23 Investment Management Board from the new article.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 4. STATE DEPOSITORIES.**

**Commented [CS1]:** Added new sections to title. Cut language for brevity and reordered to reflect amended body of bill.

**Formatted:** Underline

**§12-1-151C. FINANCIAL INSTITUTIONS ENGAGED IN BOYCOTTS OF ENERGY**

**COMPANIES.**

**§12-1C-1.**

**Definitions. -**

For the purposes of this ~~section~~ article, the following terms shall have the following meanings:

~~(1)~~ "Banking contract" means a contract entered into by the Treasurer and a financial institution pursuant to this chapter, to provide banking goods or services to a spending unit.

~~(2)~~ "Boycott of energy companies" means without a reasonable business purpose, refusal to deal with a company, termination of business activities with a company, or another action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

(A) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy;

(B) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or

(C) Does business with a company that engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy.

~~(3)~~ "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exist for the purpose of making profit.

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21 ~~(4)~~ "Financial institution" means a bank, national banking association, non-bank financial  
22 institution, a bank and trust company, a trust company, a savings and loan association, a building  
23 and loan association, a mutual savings bank, a credit union, or a savings bank.

24 ~~(5)~~ "Reasonable business purpose" includes any purpose directly related to:

25 (A) Promoting the financial success or stability of a financial institution;

26 (B) Mitigating risk to a financial institution;

27 (C) Complying with legal or regulatory requirements; or

28 (D) Limiting liability of a financial institution.

29 ~~(6)~~ "Restricted financial institution" means a financial institution included in the most  
30 recently updated restricted financial institution list.

31 ~~(7)~~ "Restricted financial institution list" means the list ~~that the Treasurer is authorized to~~  
32 ~~prepare, maintain~~of financial institutions prepared, maintained, and ~~publish~~published pursuant to  
33 ~~subsection (b) of this section~~article.

34 ~~(8)~~ "Treasurer" refers to the West Virginia State Treasurer.

~~(b)~~ **§12-1C-2. Restricted financial institutions list.** —

35 ~~(1)~~

1 (a) The Treasurer is authorized to prepare and maintain a list of financial institutions that  
2 are engaged in a boycott of energy companies. ~~A list prepared pursuant to this subsection shall~~  
3 ~~be known and cited as the restricted financial institution list.~~

4 (2b) The Treasurer must publicly post the restricted financial institution list on the  
5 Treasurer's website and submit a copy of the list to the Governor, the President of the Senate,  
6 and the Speaker of the House of Delegates.

7 (c) A citation to this ~~section of the Code~~article and a brief summary of the purpose of the  
8 list must appear at the top of the list, including a statement that ~~inclusion on the list is not an~~  
9 ~~indication of unsafe or unsound operating conditions of any~~ bankfinancial institution nor any risk  
10 ~~to consumer deposits.~~

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Commented [CS2]: Not necessary, because of the definition of restricted financial institution list.

11 ~~(3d)~~ The Treasurer must update the restricted financial institution list annually, or more  
12 often as the Treasurer considers necessary.

13 ~~(4) In preparing the restricted financial institution list, the Treasurer may review and rely~~  
14 ~~on the financial institution's certification that it is not engaged in a boycott of energy companies~~  
15 ~~and on reliable, accurate, publicly available information regarding financial institutions, including~~  
16 ~~public statements by a financial institution and information published or provided by nonprofit~~  
17 ~~organizations, research firms, international organizations, or state or federal governmental~~  
18 ~~entities: *Provided*, That the Treasurer may consider but may not rely solely upon statements or~~  
19 ~~complaints by a single energy company.~~

Commented [CS3]: Addressed in section 4.

~~(5)~~ **§12-1C-3. Notice to financial institutions.**

1 ~~(a)~~ Forty-five days prior to including a financial institution on the restricted financial  
2 institution list, the Treasurer must send a written notice to the institution containing the following  
3 information:

4 ~~(A1)~~ That the Treasurer has determined that the financial institution is a restricted financial  
5 institution;

6 ~~(B2)~~ That the financial institution will be placed on the restricted financial institution list in  
7 45 days unless, within 30 days following the receipt of the written notice, the restricted financial  
8 institution demonstrates that it is not engaged in a boycott of energy companies;

9 ~~(C3)~~ That the restricted financial institution list is published on the Treasurer's website;  
10 and

11 ~~(D4)~~ That the institution's placement on the list may render the institution ineligible to enter  
12 into, or remain in, banking contracts with the State of West Virginia.

13 ~~(6b)~~ Following a restricted financial institution's inclusion on the restricted financial  
14 institution list, the Treasurer will remove the institution from the list if the institution demonstrates  
15 that it has ceased all activity that boycotts energy companies.

**§12-1C-4. Sources of Information.**

1 ~~(a)~~ In determining whether to include a financial institution on the restricted financial  
2 institution list, the Treasurer shall consider and may rely upon the following information:

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3 (1) A financial institution's certification that it is not engaged in a boycott of energy  
4 companies;

5 (2) Publicly available statements or information made by the financial institution, including  
6 statements by a member of a financial institution's governing body, an executive director of a  
7 financial institution, or any other officer or employee of the financial institution with the authority  
8 to issue policy statements on behalf of the financial institution; or

9 (3) Information published by a state or federal government entity.

10 (b) In determining whether to include a financial institution on the restricted financial  
11 institution list, the Treasurer may not rely solely on the following information:

12 (1) Statements or complaints by an energy company; or

13 (2) Media reports of a financial institution's boycott of energy companies.

14 (c) A financial institution may not be compelled to produce or disclose any data or  
15 information deemed confidential, privileged, or otherwise protected from disclosure by state or  
16 federal law.

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17 ~~(c) Treasurer authority with regard to restricted~~

**§12-1C-5. Restricted financial institutions.**

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1 (4a) In selecting a financial institution to enter into a banking contract, the Treasurer is  
2 authorized to disqualify restricted financial institutions from the competitive bidding process or  
3 from any other official selection process.

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4 (2b) The Treasurer is authorized to refuse to enter into a banking contract with a restricted  
5 financial institution based on its restricted financial institution status.

6 (3c) The Treasurer is authorized to require, as a term of any banking contract, an  
7 agreement by the financial institution not to engage in a boycott of energy companies for the  
8 duration of the contract.

~~(d)~~ **§12-1C-6. Limitation on ~~liability.~~—Liability.**

1           With respect to actions taken in compliance with this ~~section~~article, a public agency, public  
2 official, public employee, or member or employee of a financial institution is immune from liability.

~~(e)~~ *Applicability to the West Virginia Investment Management Board.*—**§12-1C-7. Exemptions.**

1           The provisions of this section do not apply to the duties, actions, and transactions of the  
2 West Virginia Investment Management Board as set forth in §12-6-1 ~~et seq.~~ of this code.

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# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 262**

BY SENATORS PHILLIPS, GRADY, MARTIN, MAYNARD,

KARNES, HAMILTON, AND WOODRUM

[Originating in the Committee on Finance; reported on

January 24, 2022]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §12-1C-1, §12-1C-2, §12-1C-3, §12-1C-4, §12-1C-5, §12-1C-6, and  
3 §12-1C-7, all relating generally to financial institutions engaged in boycotts of energy  
4 companies; defining terms; authorizing the State Treasurer to publish a list of financial  
5 institutions engaged in boycotts of energy companies; requiring the Treasurer to publicly  
6 post the list and submit the list to certain public officials; requiring the list to contain certain  
7 information; requiring the Treasurer to send written notice to a financial institution prior to  
8 its inclusion on the list; establishing required content of said written notice; requiring the  
9 Treasurer to remove a financial institution from the list if it presents information  
10 demonstrating that it is not engaged in a boycott of energy companies; preventing financial  
11 institutions from being compelled to produce certain information; setting forth sources of  
12 information on which the Treasurer may rely in preparing the list; authorizing the Treasurer  
13 to exclude financial institutions on the list from the selection process for state banking  
14 contracts; authorizing the Treasurer to refuse to enter into a banking contract with a  
15 financial institution on the list; authorizing the Treasurer to require, as a term of a banking  
16 contract, an agreement by the financial institution not to engage in a boycott of energy  
17 companies; limiting liability for actions taken in compliance with the new article; and  
18 exempting the Investment Management Board from the new article.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1C. FINANCIAL INSTITUTIONS ENGAGED IN BOYCOTTS OF ENERGY**

**COMPANIES.**

**§12-1C-1. Definitions.**

1 For the purposes of this article, the following terms shall have the following meanings:  
2 “Banking contract” means a contract entered into by the Treasurer and a financial  
3 institution pursuant to this chapter, to provide banking goods or services to a spending unit.



4 “Boycott of energy companies” means without a reasonable business purpose, refusal to  
5 deal with a company, termination of business activities with a company, or another action that is  
6 intended to penalize, inflict economic harm on, or limit commercial relations with a company  
7 because the company:

8 (A) Engages in the exploration, production, utilization, transportation, sale, or  
9 manufacturing of fossil fuel-based energy;

10 (B) Engages in the exploration, production, utilization, transportation, sale, or  
11 manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental  
12 standards beyond applicable federal and state law; or

13 (C) Does business with a company that engages in the exploration, production, utilization,  
14 transportation, sale, or manufacturing of fossil fuel-based energy.

15 “Company” means any sole proprietorship, organization, association, corporation,  
16 partnership, joint venture, limited partnership, limited liability partnership, limited liability company,  
17 or other entity or business association, including all wholly owned subsidiaries, majority-owned  
18 subsidiaries, parent companies, or affiliates of those entities or business associations, that exist  
19 for the purpose of making profit.

20 “Financial institution” means a bank, national banking association, non-bank financial  
21 institution, a bank and trust company, a trust company, a savings and loan association, a building  
22 and loan association, a mutual savings bank, a credit union, or a savings bank.

23 “Reasonable business purpose” includes any purpose directly related to:

24 (A) Promoting the financial success or stability of a financial institution;

25 (B) Mitigating risk to a financial institution;

26 (C) Complying with legal or regulatory requirements; or

27 (D) Limiting liability of a financial institution.

28 “Restricted financial institution” means a financial institution included in the most recently  
29 updated restricted financial institution list.

30 “Restricted financial institution list” means the list of financial institutions prepared,  
31 maintained, and published pursuant to this article.

32 “Treasurer” refers to the West Virginia State Treasurer.

**§12-1C-2. Restricted financial institutions list.**

1 (a) The Treasurer is authorized to prepare and maintain a list of financial institutions that  
2 are engaged in a boycott of energy companies.

3 (b) The Treasurer must publicly post the restricted financial institution list on the  
4 Treasurer’s website and submit a copy of the list to the Governor, the President of the Senate,  
5 and the Speaker of the House of Delegates.

6 (c) A citation to this article and a brief summary of the purpose of the list must appear at  
7 the top of the list, including a statement that inclusion on the list is not an indication of unsafe or  
8 unsound operating conditions of any financial institution nor any risk to consumer deposits.

9 (d) The Treasurer must update the restricted financial institution list annually, or more often  
10 as the Treasurer considers necessary.

**§12-1C-3. Notice to financial institutions.**

1 (a) Forty-five days prior to including a financial institution on the restricted financial  
2 institution list, the Treasurer must send a written notice to the institution containing the following  
3 information:

4 (1) That the Treasurer has determined that the financial institution is a restricted financial  
5 institution;

6 (2) That the financial institution will be placed on the restricted financial institution list in 45  
7 days unless, within 30 days following the receipt of the written notice, the restricted financial  
8 institution demonstrates that it is not engaged in a boycott of energy companies;

9 (3) That the restricted financial institution list is published on the Treasurer’s website; and

10 (4) That the institution’s placement on the list may render the institution ineligible to enter  
11 into, or remain in, banking contracts with the State of West Virginia.

12 (b) Following a restricted financial institution's inclusion on the restricted financial  
13 institution list, the Treasurer will remove the institution from the list if the institution demonstrates  
14 that it has ceased all activity that boycotts energy companies.

**§12-1C-4. Sources of Information.**

1 (a) In determining whether to include a financial institution on the restricted financial  
2 institution list, the Treasurer shall consider and may rely upon the following information:

3 (1) A financial institution's certification that it is not engaged in a boycott of energy  
4 companies;

5 (2) Publicly available statements or information made by the financial institution, including  
6 statements by a member of a financial institution's governing body, an executive director of a  
7 financial institution, or any other officer or employee of the financial institution with the authority  
8 to issue policy statements on behalf of the financial institution; or

9 (3) Information published by a state or federal government entity.

10 (b) In determining whether to include a financial institution on the restricted financial  
11 institution list, the Treasurer may not rely solely on the following information:

12 (1) Statements or complaints by an energy company; or

13 (2) Media reports of a financial institution's boycott of energy companies.

14 (c) A financial institution may not be compelled to produce or disclose any data or  
15 information deemed confidential, privileged, or otherwise protected from disclosure by state or  
16 federal law.

**§12-1C-5. Restricted financial institutions.**

1 (a) In selecting a financial institution to enter into a banking contract, the Treasurer is  
2 authorized to disqualify restricted financial institutions from the competitive bidding process or  
3 from any other official selection process.

4 (b) The Treasurer is authorized to refuse to enter into a banking contract with a restricted  
5 financial institution based on its restricted financial institution status.

6           (c) The Treasurer is authorized to require, as a term of any banking contract, an agreement  
7 by the financial institution not to engage in a boycott of energy companies for the duration of the  
8 contract.

**§12-1C-6. Limitation on Liability.**

1           With respect to actions taken in compliance with this article, a public agency, public official,  
2 public employee, or member or employee of a financial institution is immune from liability.

**§12-1C-7. Exemptions.**

1           The provisions of this section do not apply to the duties, actions, and transactions of the  
2 West Virginia Investment Management Board as set forth in §12-6-1 et seq. of this code.

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 262**

BY SENATORS PHILLIPS, GRADY, MARTIN, MAYNARD,

KARNES, HAMILTON, AND WOODRUM

[Originating in the Committee on Finance; reported on

January 24, 2022]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §12-1-15, relating generally to financial institutions engaged in boycotts of  
3 energy companies; defining terms; authorizing the State Treasurer to prepare, maintain,  
4 and publish a list of financial institutions engaged in boycotts of energy companies;  
5 requiring the Treasurer to post the list on his or her website and submit the list to certain  
6 public officials; setting forth sources of information on which the Treasurer may rely on  
7 preparing the list; requiring the Treasurer to send written notice to a financial institution  
8 within a specified timeframe prior to its inclusion on the list; establishing required content  
9 of said notice; requiring the Treasurer to refrain from publishing the financial institution on  
10 the list upon receipt of certain information within a specified timeframe; requiring the  
11 Treasurer to remove a financial institution from the list if it presents information  
12 demonstrating that it is not engaged in a boycott of energy companies; preventing financial  
13 institutions from being compelled to produce certain information; authorizing the Treasurer  
14 to exclude financial institutions on the list from the selection process for state banking  
15 contracts; authorizing the Treasurer to refuse to enter into a banking contract with a  
16 financial institution on the list; authorizing the Treasurer to require, as a term of a banking  
17 contract, an agreement by the financial institution not to engage in a boycott of energy  
18 companies; and limiting liability of public officials, public employees, members or  
19 employees of financial institutions for actions taken in compliance with the new code  
20 section and exempting the Investment Management Board.

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*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1. STATE DEPOSITORIES.**

**§12-1-15. Financial institutions engaged in boycotts of energy companies.**

1 (a) Definitions. – For the purposes of this section:  
2 (1) “Banking contract” means a contract entered into by the Treasurer and a financial  
3 institution pursuant to this chapter, to provide banking goods or services to a spending unit.

5 (2) "Boycott of energy companies" means without a reasonable business purpose, refusal  
6 to deal with a company, termination of business activities with a company, or another action that  
7 is intended to penalize, inflict economic harm on, or limit commercial relations with a company  
8 because the company:

9 (A) Engages in the exploration, production, utilization, transportation, sale, or  
10 manufacturing of fossil fuel-based energy;

11 (B) Engages in the exploration, production, utilization, transportation, sale, or  
12 manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental  
13 standards beyond applicable federal and state law; or

14 (C) Does business with a company that engages in the exploration, production, utilization,  
15 transportation, sale, or manufacturing of fossil fuel-based energy.

16 (3) "Company" means any sole proprietorship, organization, association, corporation,  
17 partnership, joint venture, limited partnership, limited liability partnership, limited liability company,  
18 or other entity or business association, including all wholly owned subsidiaries, majority-owned  
19 subsidiaries, parent companies, or affiliates of those entities or business associations, that exist  
20 for the purpose of making profit.

21 (4) "Financial institution" means a bank, national banking association, non-bank financial  
22 institution, a bank and trust company, a trust company, a savings and loan association, a building  
23 and loan association, a mutual savings bank, a credit union, or a savings bank.

24 (5) "Reasonable business purpose" includes any purpose directly related to:

25 (A) Promoting the financial success or stability of a financial institution;

26 (B) Mitigating risk to a financial institution;

27 (C) Complying with legal or regulatory requirements; or

28 (D) Limiting liability of a financial institution.

29 (6) "Restricted financial institution" means a financial institution included in the most  
30 recently updated restricted financial institution list.

Commented [CS1]: Comment 1: The WVSTO has concerns over changing the singular to "all companies" or to significantly altering this definition. The WVSTO finds it prudent to keep the definition as close to the definition being used in other states (i.e. Texas). The language flagged in Comment 8 should address concerns that complaints by a single company would be adequate to demonstrate a boycott.

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37 (7) "Restricted financial institution list" means the list that the Treasurer is authorized to  
38 prepare, maintain, and publish pursuant to subsection (b) of this section.

39 (8) "Treasurer" refers to the West Virginia State Treasurer.

40 (b) *Restricted financial institutions list.* –

41 (1) The Treasurer is authorized to prepare and maintain a list of financial institutions that  
42 are engaged in a boycott of energy companies. A list prepared pursuant to this subsection shall  
43 be known and cited as the restricted financial institution list.

44 (2) The Treasurer must publicly post the restricted financial institution list on the  
45 Treasurer's website and submit a copy of the list to the Governor, the President of the Senate,  
46 and the Speaker of the House of Delegates. A citation to this section of the Code and a brief  
47 summary of the purpose of the list must appear at the top of the list.

48 (3) The Treasurer must update the restricted financial institution list annually, or more often  
49 as the Treasurer considers necessary.

50 (4) In preparing the restricted financial institution list, the Treasurer may review and rely  
51 on the financial institution's certification that it is not engaged in a boycott of energy companies  
52 and on publicly available information regarding financial institutions, including public statements  
53 by a company and information published or provided by nonprofit organizations, research firms,  
54 international organizations, or state or federal governmental entities. *Provided, That the Treasurer*  
55 *may consider but may not rely solely upon statements or complaints by a single energy company.*

56 (5) Forty-five days prior to including a financial institution on the restricted financial  
57 institution list, the Treasurer must send a written notice to the institution containing the following  
58 information:

59 (A) That the Treasurer has determined that the financial institution is a restricted financial  
60 institution;

61 (B) That the financial institution will be placed on the restricted financial institution list in  
62 45 days unless, within 30 days following the receipt of the written notice, the restricted financial

Deleted: (2) In preparing the restricted financial institution list, the Treasurer may review and rely on

Deleted: publicly available information regarding financial institutions, including public statements by a company, information published or provided by nonprofit organizations, research firms, international organizations, and other state or federal governmental entities. ¶

(3) Upon preparation of the restricted financial institution list, the Treasurer must comply with the following requirements: ¶  
(A

Commented [CS5]: Comment 5: Per Loren draft.

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Deleted: (C) For each newly identified restricted financial institution, the Treasurer must send a written notice informing the institution of its restricted financial institution status and that it may be ineligible to enter into, or remain in, banking contracts with the State of West Virginia. If.

Commented [CS6]: Comment 6: Per Loren draft

Commented [CS7]: Comment 7: The WVSTO declines requested changes limiting the resources that the WVSTO can rely upon in making this determination. The Treasurer needs to exercise discretion and review all credible information available to him.

Commented [CS8]: Comment 8: Per Loren draft

Commented [CS9]: Comment 9: Period of notice and appeal prior to placement on restricted list, per conversation with bankers. Suggesting a longer time period and tweaks to the language.

Commented [CS10]: Comment 10: See Comment 7



82 institution provides information demonstrating, to the Treasurer's satisfaction, that it is not  
83 engaged in a boycott of energy companies;

84 (C) That the restricted financial institution list is published on the Treasurer's website; and

85 (D) That the institution's placement on the list may render the institution ineligible to enter  
86 into, or remain in, banking contracts with the State of West Virginia.

87 (6) Following a restricted financial institution's inclusion on the restricted financial  
88 institution list, the Treasurer will remove the institution from the list if the institution provides  
89 information demonstrating, to the Treasurer's satisfaction, that it has ceased all activity that  
90 boycotts energy companies.

91 (7) A financial institution may not be compelled to produce or disclose any data or  
92 information deemed confidential, privileged, or otherwise protected from disclosure by state or  
93 federal law.

94 (c) Treasurer authority with regard to restricted financial institutions. –

95 (1) In selecting a financial institution to enter into a banking contract, the Treasurer is  
96 authorized to disqualify restricted financial institutions from the competitive bidding process or  
97 from any other official selection process.

98 (2) The Treasurer is authorized to refuse to enter into a banking contract with a restricted  
99 financial institution based on its restricted financial institution status.

100 (3) The Treasurer is authorized to require, as a term of any banking contract, an  
101 agreement by the financial institution not to engage in a boycott of energy companies for the  
102 duration of the contract.

103 (d) Limitation on liability. – With respect to actions taken in compliance with this section, a  
104 public agency, public official, public employee, or member or employee of a financial institution is  
105 immune from liability.

106 (e) Applicability to the West Virginia Investment Management Board. – The provisions of  
107 this section do not apply to the duties, actions, and ~~transactions~~ of the West Virginia Investment

~~Deleted: or that it has ceased all activity that boycotts energy companies, the Treasurer must remove the company from the restricted financial institution list.~~

Commented [CS11]: Comment 11: Per Loren draft

Commented [CS12]: Comment 12: Fixed a few typos

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CS for CS for SB 262

112 Management Board as set forth in §12-6-1 et seq. of this code.

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