WEST VIRGINIA CODE: §12-6-11

§12-6-11. Standard of care and investment requirements; disclosure of information.

(a) Any investments made under this article shall be made in accordance with the provisions of the Uniform Prudent Investor Act codified as article six-c, chapter forty-four of this code and is further subject to the following requirements:

(1) Trustees shall discharge their duties with respect to the 401(a) plans for the exclusive purpose of providing benefits to participants and their beneficiaries;

(2) Trustees shall diversify fund investment so as to minimize the risk of large losses unless, under the circumstances, it is clearly prudent not to do so;

(3) Trustees shall defray reasonable expenses of investing and operating the funds under management;

(4) Trustees shall discharge their duties in accordance with the documents and instruments governing the trusts or other funds under management insofar as the documents and instruments are consistent with the provisions of this article;

(5) Trustees, at the annual meeting required in subsection (h), section three of this article, shall review, establish and modify, if necessary, the investment objectives of the individual participant plans as incorporated in the investment policy statements of the respective trusts so as to provide for the financial security of the trust funds giving consideration to the following:

(A) Preservation of capital;

(B) Diversification;

(C) Risk tolerance;

(D) Rate of return;

(E) Stability;

(F) Turnover;

(G) Liquidity; and

(H) Reasonable cost of fees;

(6) The board may invest in a private real estate fund, a private equity fund or a hedge fund only if the investment satisfies the following conditions:

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(A) A professional, third-party fiduciary investment adviser registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940, as amended, recommends the investment;

(B) The board or a committee designated by the board approves the investment;

(C) The board's ownership interest in the fund will be less than forty percent of the fund's assets at the time of acquisition; (D) The combined investment of institutional investors, other public sector entities and educational institutions and their endowments and foundations in the fund is equal to or greater than fifty percent of the board's total investment in the fund at the time of acquisition; and

(E) The largest investment of such fund is not greater than forty percent of the fund's assets at the time of acquisition; and

(7) The total assets of the private real estate fund, private equity fund or hedge fund shall be used in calculating the percentage requirements and limitations set forth in subdivision (6) of this subsection without regard to any particular investment vehicle in which assets may be held pending investment.

(b) If the standard confidentiality agreements, policies or procedures of any firm, company or organization through which the board invests in securities prohibit, restrict or limit the disclosure of information pertaining to the securities, the information is exempt from disclosure, under the provisions of chapter twenty-nine-b of this code or otherwise, to the extent of the prohibitions, restrictions or limitations.

(c) The duties of the board apply only with respect to those assets deposited with or otherwise held by it.

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