WEST VIRGINIA CODE CHAPTER 12 ARTICLE 6A

WV Legislature

§12-6A-1. Short title.

This article shall be known and may be cited as "The Debt Management Act".

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§12-6A-2. Legislative findings and declaration of public necessity.

The Legislature hereby finds and declares that in order to maintain the strong financial management of the state, to meet the fiscal needs of state government and to facilitate financing essential capital projects at the lowest possible cost to the citizens of the state, the state must regularly monitor the amount of debt issued by the state and its spending units, ensure the state and its spending units meet all debt service requirements, monitor the credit rating of the state and analyze the acceptance of debt issued by the state and its spending units. The Legislature further finds that in order to meet these important goals, the Division of Debt Management needs to be continued.

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§12-6A-3. Division of Debt Management continued; director.

(a)The Division of Debt Management is continued in the office of the State Treasurer.

(b) The Division shall serve as a central information source concerning the incurrence, recording and reporting of debt issued by the state and its spending units, and shall prepare reports pertaining to the capacity of the state and its spending units to issue debt.

(c) The Treasurer shall appoint a director, qualified by reason of exceptional training and experience in the field of activities of his or her respective Division, and who shall serve at the will and pleasure of the Treasurer.

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§12-6A-4. Definitions.

For the purpose of this article:

"Debt" means bonds, notes, certificates of participation, certificate transactions, capital leases, debentures, lease purchases, mortgages, securitizations and all other forms of securities and indebtedness obligations evidencing specific amounts owed and payable on demand or on determinable dates.

"Debt impact report" means a report prepared by the division which includes information pertaining to a proposed issuance of debt by the state or its spending units.

"Division" means the Division of Debt Management.

"Moral obligation bond" means a debt obligation for which the state or a spending unit has made a nonbinding covenant to make up any deficiency in debt service.

"Net tax supported debt" means the amount of tax supported debt less any applicable refundings, defeasances, escrow accounts, reserve requirements and sinking funds.

"State" means the State of West Virginia.

"Spending unit" means a state department, agency, board, commission, committee, authority or other entity of the state with the power to issue and secure debt. Spending unit does not include local political subdivisions.

"Tax-supported debt" means: (1) General obligation bonds of the state; (2) moral obligation bonds of the state or a spending unit; (3) capital leases, installment purchases, lease purchases, mortgages, certificates of participation and any other similar debt financing transaction extending beyond one year issued by the state or its spending units; and (4) any other debt issued by the state or a spending unit which is not self-supporting. Debt issued by the West Virginia housing development fund, economic development authority, hospital finance authority, parkway authority, public energy authority, solid waste management board and water development authority, with the exception of debt secured by lottery revenues or secured by a lease with the Secretary of Administration, is not tax-supported debt.

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§12-6A-5. Powers and duties.

The Division of Debt Management shall perform the following functions and duties:

(1) Continuously evaluate the current and projected debt and debt service requirements of the State and its spending units.

(2) Evaluate cash flow projections relative to proposed and existing revenue bond issues.

(3) Issue a debt impact report if requested by the Governor, the President of the Senate or the Speaker of the House of Delegates. The Division may request any additional information needed to issue a debt impact report. A debt impact report shall in no way restrict the Governor, the Legislature or the spending unit.

(4) Act as liaison with the Legislature on all debt matters, including, but not limited to, new debt issues and the status of debt issued by the State and its spending units.

(5) Assist the State and its spending units regarding the issuance of debt if requested.

(6) Establish reporting requirements for the issuance of debt by the State and its spending units pursuant to the provisions of this article.

(7) Monitor continuing disclosure requirements and post-issuance compliance issues with federal and state tax and securities law, including, without limitation, arbitrage, rebate and remedial measures.

(8) Make and execute contracts and other instruments and pay the reasonable value of services or commodities rendered to the division pursuant to those contracts.

(9) Contract, cooperate or join with any one or more other governments or public agencies, with any political subdivision of the State, or with the United States, to perform any administrative service, activity or undertaking which the contracting party is authorized by law to perform, charge for providing services and expend any fees collected.

(10) Do all things necessary or convenient to effectuate the intent of this article and to carry out its powers and functions.

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§12-6A-6. Reporting.

(a) Within fifteen days following the end of each calendar quarter, each state spending unit shall provide the division and the Legislative Auditor, in the manner provided by this article and in such form and detail as the State Treasurer may require, a report including, but not limited to, the name of the state spending unit, the amounts and types of debt incurred during the calendar quarter and outstanding at the end of the calendar quarter, the cost and expenses of incurring the debt, the maturity date of each debt, the terms and conditions of the debt, the current debt service on the debt, the interest rate on the debt, the source of the proceeds utilized for repayment of the debt, the amounts of repayment during the calendar quarter, the repayment schedule and the security for the debt. A state spending unit having no outstanding debt shall not be required to provide the quarterly report but shall file an annual report, on forms established by the Division of Debt Management: Provided, That the state spending unit shall immediately notify the Division of Debt Management of any change in the spending unit's outstanding debt or financial condition.

(b) Not less than thirty days prior to a proposed offering of debt by the state or a state spending unit, written notice of the proposed offering and the terms thereof shall be given to the Division by the state spending unit in the form as the Division may require.

(c) Within thirty days after closing on an offering, the responsible spending unit shall report to the division the information pertaining to the offering required by the division in the form the division may require.

(d) On or before January 31 and July 31 of each year, the division shall prepare and issue a report of all debt of the State and its spending units and of all proposed debt issuances of which the division has received notice and shall furnish a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Delegates, the members of the Joint Committee on Government and Finance, the Legislative Auditor and upon request to any other legislative committee and any member of the Legislature. The report shall be kept available for inspection by any citizen of the state. The division shall also prepare updated reports of all debt of the state and its spending units as of March 31 and September 30 each year, which shall be available for inspection at the office of the state Treasurer within thirty days of the end of the respective calendar quarter.

(e) On or before January 15 each year, the division shall report to the Governor and to the Legislature on the capacity of the state to issue additional debt. In preparing its annual review and estimate, the division shall, at a minimum, consider:

(1) The amount of net tax supported debt outstanding and debt authorized but not issued during the current and next fiscal year and annually for the following ten fiscal years;

(2) Debt service requirements during the current and next fiscal year and annually for the following ten fiscal years based upon existing outstanding debt, previously authorized but unissued debt and projected bond authorizations;

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(3) Any information available from the budget office of the department of revenue in connection with projected revenues and anticipated capital expenditures projected for at least the next five fiscal years;

(4) The amount of debt the state and its spending units may prudently issue;

(5) What is needed to keep West Virginia within an average to low range of nationally recognized debt limits;

(6) The debt ratios rating agencies and analysts use; and

(7) The effect of authorizations of new tax supported debt on each of the considerations in this subsection.

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§12-6A-7. Promulgation of rules.

The Treasurer shall propose rules for legislative approval relating to the reporting requirements and duties under this article in accordance with the provisions of article three, chapter twenty-nine-a of this code.

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