WEST VIRGINIA CODE: §12-8-10

§12-8-10. State pledges and covenants.

(a) The State of West Virginia covenants and agrees with the obligation holders, and the indenture shall so state, that the bonds issued pursuant to this article are a direct and general obligation of the State of West Virginia; that the pension liability redemption payments will be included in each budget along with all other amounts for payment and discharge of the principal of and interest on state debt; that the full faith and credit of the state is hereby pledged to secure the payment of the principal of and interest on the bonds; and that annual state taxes shall be collected in an amount sufficient to pay the pension liability redemption payments as they become due and payable from the Pension Liability Redemption Fund.

(b) The state hereby pledges and covenants with the obligation holders, and the indenture shall so state, that the state will not limit or alter the rights, powers or duties vested in any state official, or that state official's successors or assigns, and the obligation holders in a way that will inhibit any state official, or that state official's successors or assigns, from carrying out the state official's rights, powers or duties under this article, nor limit or alter the rights, powers or duties of any state official, or that state official's successors or assigns, in any manner which would jeopardize the interest of any obligation holder, or inhibit or prevent performance or fulfillment by any state official, or that state official's successors or assigns, with respect to the terms of any agreement made with any obligation holder pursuant to section six of this article.

(c) The state hereby pledges and covenants with the obligation holders, and the indenture shall state, that, while any of the bonds are outstanding, any changes in unfunded actuarial accrued liability in any of the West Virginia state sponsored pension systems resulting from the actual experience for that system occurring during any fiscal year due to net differences between the expected and actual experience for that year will be fully amortized over no more than the ten consecutive fiscal years following the date the Consolidated Public Retirement Board certifies the net actuarial gain or loss to the Governor. The certification shall be made on or before the thirty-first day of January of each year. The net actuarial gain or loss for the fiscal year shall be determined from the actuarial valuation authorized by the Consolidated Public Retirement Board for each plan completed at as of the first day of the following fiscal year. Following the receipt of the certification of net actuarial gain or loss, the Governor shall submit the amount of the amortization payment or credit each year for the pension systems as part of the annual budget submission or in an executive message to the Legislature. The Consolidated Public Retirement Board shall include the ten year amortization in the determination of the adequacy of the employer contribution percentage for the West Virginia Public Employees Retirement System and West Virginia State Police Retirement System.

(d) The state hereby pledges and covenants with the obligation holders, and the indenture

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shall state, that, while any of the bonds are outstanding, if the unfunded actuarial accrued liability of any of the West Virginia state sponsored pension systems increases or decreases due to changes in actuarial assumptions adopted by the Consolidated Public Retirement Board for completion of the annual actuarial valuation for any plan, the change shall be fully amortized over no more than the ten consecutive fiscal years following the date the Consolidated Public Retirement Board certifies the net change due to changes in assumptions to the Governor. The certification shall be made on or before the thirty-first day of January of each year. Following the receipt of the certification of change due to changes in actuarial assumptions, the Governor shall submit the amount of the amortization payment each year for the pension systems as part of the annual budget submission or in an executive message to the Legislature. The Consolidated Public Retirement Board shall include the ten year amortization in the determination of the adequacy of the employer contribution percentage for the Public Employees Retirement System and West Virginia State Police Retirement System.

(e) The state hereby pledges and covenants with the obligation holders, and the indenture shall state, that, while any of the bonds are outstanding (1) the state will not increase any existing benefits or create any new benefits for any retirees or beneficiaries currently receiving monthly benefit payments from any of the West Virginia state sponsored pension systems, other than an increase in benefits or new benefits effected by operation of law in effect on the effective date of this article, in an amount that would exceed more than one percent of the accrued actuarial liability of the system as of the last day of the preceding fiscal year as determined in the annual actuarial valuation for each plan completed for the Consolidated Public Retirement Board as of the first day of the following fiscal year as of the date the improvement is adopted by the Legislature; and (2) if any increase of existing benefits or creation of new benefits for any retirees or beneficiaries currently receiving monthly benefit payments under any of the West Virginia state sponsored pension systems, other than an increase in benefits or new benefits effected by operation of law in effect on the effective date of this article, causes any additional unfunded actuarial accrued liability in any of the West Virginia state sponsored pension systems as calculated in the annual actuarial valuation for each plan during any fiscal year, the additional unfunded actuarial accrued liability of that pension system will be fully amortized over no more than the six consecutive fiscal years following the date the increase in benefits or new benefits become effective as certified by the Consolidated Public Retirement Board. Following the receipt of the certification of additional actuarial accrued liability, the Governor shall submit the amount of the amortization payment each year for the pension systems as part of the annual budget submission or in an executive message to the Legislature. The Consolidated Public Retirement Board shall include the six year amortization in the determination of the adequacy of the employer contribution percentage for the West Virginia Public Employees Retirement System and West Virginia State Police Retirement System.

(f) The state hereby pledges and covenants with the obligation holders, and the indenture shall state, that, while any of the bonds are outstanding that the computation of annuities or benefits for active members due to retirement, death or disability as provided for in the

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pension systems shall not be amended in any manner that increases any existing benefits or provides for new benefits.

(g) The state hereby pledges and covenants with the obligation holders, and the indenture shall state, that, while any of the bonds are outstanding, the state will not increase any existing benefits or create any new benefits for active members due to retirement, death or disability of the West Virginia Public Employees Retirement System or the West Virginia State Police Retirement System unless the actuarial accrued liability of the plan is at least eighty-five percent funded as of the last day of the prior fiscal year as determined in the actuarial valuation for the plan completed for the Consolidated Public Retirement Board as of the first day of the following fiscal year as of the date the improvement is adopted by the Legislature. Any additional unfunded actuarial accrued liability due to any improvement in active members benefits shall be fully amortized over not more than ten years following the date the increase in benefits or new benefits become effective as certified by the Consolidated Public Retirement Board. The Consolidated Public Retirement Board shall include the ten year amortization in the determination of the adequacy of the employer contribution percentage for the West Virginia Public Employees Retirement System and West Virginia State Police Retirement System.

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