WEST VIRGINIA CODE: §18-30-6

§18-30-6. Use of financial organizations as program depositories and managers.

(a) The board may implement the program through use of financial organizations as account depositories and managers. The board may solicit proposals from financial organizations to act as depositories and managers of the program. Financial organizations submitting proposals shall describe the investment instruments which will be held in accounts. The board may select more than one financial organization and investment instrument for the program. The board shall select financial organizations to act as program depositories and managers, based on the following criteria:

(1) The financial stability and integrity of the financial organization;

(2) The safety of the investment instrument being offered;

(3) The ability of the financial organization to satisfy recordkeeping and reporting requirements;

(4) The financial organization’s plan for promoting the program and the investment the organization is willing to make to promote the program;

(5) The fees, if any, proposed to be charged to the account owners;

(6) The minimum initial deposit and minimum contributions that the financial organization will require;

(7) The ability of the financial organization to accept electronic deposits and withdrawals, including payroll deduction plans; and

(8) Other benefits to the state or its residents included in the proposal, including fees payable to the state to cover expenses of operation of the program.

(b) The board may enter into any contracts with a financial organization necessary to effectuate the provisions of this article. Any management contract shall include, at a minimum, terms requiring the financial organization to:

(1) Take any action required to keep the program in compliance with requirements of this article and any other applicable state or federal law;

(2) Keep adequate records of each account, keep each account segregated from each other account, and provide the board with the information necessary to prepare the statements required by this article and other applicable state and federal laws;

(3) Compile, summarize, and total information contained in statements required to be

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prepared under this article and applicable state and federal laws and provide such compilations to the board;

(4) Provide the board with access to the books and records of the program manager and with any other information needed to determine compliance with the contract, this article, and any other applicable state or federal law;

(5) Hold all accounts for the benefit of the account owner or owners;

(6) Be audited at least annually by a firm of certified public accountants selected by the program manager and provide the results of such audit to the board;

(7) Provide the board with copies of all regulatory filings and reports made by the financial organization during the term of the management contract or while the financial organization is holding any accounts, other than confidential filings or reports that will not become part of the program. The program manager shall make available for review by the board and the Treasurer the results of any periodic examination of such manager by any state or federal banking, insurance, or securities commission, except to the extent that such report or reports may not be disclosed under law; and

(8) Ensure that any description of the program, whether in writing or through the use of any medium, is consistent with the marketing plan developed pursuant to the provisions of this article.

(c) The board may:

(1) Enter into contracts it deems necessary for the implementation of the program, including but not limited to a contract with a financial institution, manager, consultant or other professional to provide services to both the College Savings Program and the Jumpstart Savings Program, established in §18-30A-1 *et seq*. of this code;

(2) Require that an audit be conducted of the operations and financial position of the program depository and manager at any time if the board has any reason to be concerned about the financial position, the record-keeping practices, or the status of accounts of such program depository and manager; and

(3) Terminate or decline to renew a management agreement: *Provided*, That if the board terminates or does not renew a management agreement, the board shall seek to promptly transfer such accounts to another financial organization that is selected as a program manager or depository and into investment instruments as similar to the original instruments as possible.

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