WEST VIRGINIA CODE CHAPTER 18 ARTICLE 9

WV Legislature

§18-9-1. School levies; when levy election necessary; special election.

[Repealed.]

WV Legislature

§18-9-2. Elections under this chapter; procedure.

[Repealed.]

WV Legislature

§18-9-2a. Levies.

[Repealed.]

WV Legislature

§18-9-2b.

Repealed.

Acts, 2013 Reg. Sess., Ch. 56.

WV Legislature

§18-9-2c. Transfer of funds remaining after retirement of school bonds; use of funds.

The treasurers of the county boards of education are hereby authorized and directed to transfer to the credit of the school current fund of the boards of education of their respective counties, all remaining funds collected for the retirement of school bonds after such bonds shall have been retired, if the fact of such retirement has been certified by the state sinking fund commission.

When such bonds have been retired the state sinking fund commission shall certify the fact of the retirement of such bonds to the treasurer of the board of Education of the county. Such funds shall be used in the same manner as other funds now to the credit of, or which may hereafter be placed to the credit of, the school current fund by the respective county boards of education.

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§18-9-2d. Transfer of funds for investment.

Any funds of a county board of education raised by levy or by the sale of bonds which cannot be used within a reasonable time may be transferred to the state sinking fund commission for investment, except as otherwise provided in this chapter.

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§18-9-3. Collection and disbursement of school money by sheriff; signing of orders for payment of money; forgery of signatures; penalties.

The sheriff shall receive, collect and disburse all levies, and any other school moneys he may receive to the treasurer of the county board of education unless the sheriff has been designated treasurer of the county board pursuant to section six, article nine, chapter eighteen of this code. He shall keep accounts of the money belonging to the several funds and shall credit and charge every amount to the fund to which it belongs. The treasurer of the board of Education shall pay money only upon the order of the board. The order shall specify the amount to be paid, the purpose for which it is paid, and the fund to which it shall be charged. The order shall be signed by the president and shall be countersigned by the secretary: Provided, That such signatures authorizing the payment of such orders may be made by means of such mechanical or electrical device as the board may select. Such mechanical or electrical device for the making of the signatures of the president and secretary shall be safely kept so that no one shall have access thereto except the president and the secretary of the board and such of their respective employees as may be authorized to have access thereto. If any person shall sign the names of the president or secretary of the board of Education, without having authority so to do, by the use of any mechanical or electrical device, or otherwise, or use the facsimile of the signature of either of them on any order, he shall be guilty of forgery; and if any person shall utter or attempt to employ as true such forged order, knowing the same to be forged, he shall, in either event, be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than two nor more than ten years.

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§18-9-3a. Preparation, publication, and disposition of financial statements by county boards of education.

(a) The county board of every county, within 120 days after the beginning of each fiscal year, shall prepare on a form to be prescribed by the State Auditor and the state superintendent of free schools, and cause to be published, a statement providing the following information:

(1) The receipts and expenditures of the board during the previous fiscal year arranged under descriptive headings;

(2) The name of each firm, corporation, and person who received more than $250 in the aggregate from all funds during the previous fiscal year, together with the aggregate amount received from all funds and the purpose for which paid; and

(3) All debts of the board, the purpose for which each debt was contracted, its due date, and to what date the interest thereon has been paid.

(b) The financial statement shall be published either:

(1) As a Class I-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the county; or

(2) On the county board's website: *Provided*, That the county board shall, prior to publishing a financial statement on the county board's website for the first time after the effective date of the changes made by the amendments to this section enacted during the regular session of the Legislature, 2021, hold a public hearing at which interested persons may express their views on whether the county board should publish the statement as a Class I-0 legal advertisement or on the county board's website: *Provided, however*, That upon publishing a financial statement on the county board's website for the first time after the effective date of the changes made by the amendments to this section enacted during the 2021 regular session of the Legislature, public notice of the availability of such website posting shall be published once a week in a qualified newspaper of general circulation for two successive weeks.

(c) The financial statement, if published as a Class I-0 legal advertisement, shall not include the name of any person who has entered into a contract with the county board pursuant to the provisions of §18A-2-2, §18A-2-3, §18A-2-4, and §18A-2-5 of this code.

(d) The financial statement, if published on the county board's website, shall remain posted on the county board's website at least until publication of the next annual statement, and shall, in addition to the information required in subsection (a) of this section, include:

(1) The name of every person who has entered into a contract with the county board pursuant to the provisions of §18A-2-2, §18A-2-3, §18A-2-4, and §18A-2-5 of this code, and amounts paid to each;

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(2) Budget estimates; and

(3) A list of the names of each firm, corporation, and person who received less than $250 from any fund during such fiscal year showing the amount paid to each and the purpose for which paid.

(e) The county board shall pay the cost of publishing the financial statement, if published as a Class I-0 legal advertisement, from the maintenance fund of the board.

(f) As soon as is practicable following the close of the fiscal year, but no later than 90 days after the end of the fiscal year, a copy of the published statement herein required shall be filed by the county board with the State Auditor and with the state superintendent of free schools.

(g) The county board shall transmit to any resident of the county requesting the same a copy of the published statement for the fiscal year designated, supplemented by a list of the names of all school personnel employed by the board during such fiscal year showing the amount paid to each, and a list of the names of each firm, corporation, and person who received less than $250 from any fund during such fiscal year showing the amount paid to each and the purpose for which paid.

(h) The changes made by the amendments to this section enacted during the regular session of the Legislature, 2021, shall be effective for financial statements for the fiscal year commencing on July 1, 2023.

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§18-9-4. Nonpayment of order; liability of treasurer of county board.

If, when an order of any county board of education is presented to the treasurer of the board, there are no funds to pay the same, the person entitled to receive the sum of money specified in such order may require the treasurer to endorse thereon, or write across the face thereof, the words "presented for payment," with the proper date, and sign the same; and the order, if it was due at the time of presentment, shall in such case be payable with legal interest from such date.

Any such order not paid when presented as aforesaid shall again be presented to the treasurer of the county board for payment by the person entitled to receive the money thereon not later than December 1, after such endorsement, and if not so presented, no further interest shall be allowed or paid on such order thereafter, until such order shall be so presented and endorsed as aforesaid a second time by the treasurer, and in no case shall interest be allowed or paid on such order for the period of time elapsed from December 1, following the first endorsement of such order by the treasurer and the date when such order is presented for payment or endorsement by the treasurer a second time.

In no event shall any such order bear interest for a longer period than one year and six months from date of its issue. But if the treasurer of the county board, having funds to pay the same, fails to pay any proper order of any Board of Education of his county, properly endorsed, when presented to him during business hours by a person entitled to receive the money therein specified, if the same be then due and payable, he and his sureties, and the personal representatives of such of them as are dead, shall be liable to the person entitled to receive the money due on said order for the whole amount due thereon at the time of such presentation, with legal interest on such amount from that time until payment, and ten percent on the same amount as damages.

WV Legislature

§18-9-5.

Repealed.

Acts, 2013 Reg. Sess., Ch. 56.

WV Legislature

§18-9-6. Transfer of moneys; appointment of treasurer; bonding of treasurer; approval of bank accounts; authority to invest; security for funds invested.

The sheriff of each county shall remit to the board of education all moneys in his or her possession held on behalf of the county board of education, whether or not deposited in a bank or depository, unless the sheriff has been designated treasurer of the board of education as provided in this section. The transfer of funds shall be made as of the balances on hand on June 30 of the year in which the board of education appoints a treasurer other than the sheriff, and shall be completed no later than August 1 of that year. The transfer shall be adjudged complete and final upon the approval of the sheriff's official settlement for the fiscal year ending on June 30 of the year in which the board of education appoints a treasurer other than the sheriff, and any minor adjustment made necessary by the actually known figures shall also be made at that time. All balances in all county school funds at the end of each month after June 30 of the year in which the board of Education appoints a treasurer other than the sheriff shall be transferred by the sheriff to the county board of education not later than the tenth day of the following month.

On or before the first Monday in May each county board of education shall upon recommendation of the county superintendent appoint a treasurer for the board. The treasurer is the fiscal officer of the board, or an employee commonly designated as the person in charge of the financial affairs of the county board, or the county sheriff: *Provided*, That once a board of education has appointed a treasurer other than the sheriff, the sheriff may not be named treasurer of the board in a subsequent year. Upon appointment this person shall be titled and referred to as treasurer of the board of education. For the faithful performance of this duty, the treasurer shall execute a bond, to be approved by the board of education, in the penalty to be fixed by the board of education, not to exceed the amount of school funds which it is estimated the treasurer will handle within any period of two months. The premium on the bond shall be paid by the board of education.

The board of education may open a bank account, or accounts, as required to adequately and properly transact the business of the district in a depository, or banks, within the county. The depositories, or banks, shall provide bond to cover the maximum amount to be deposited at any one time. However, the county board of education may, in lieu of such bond, accept as security for money deposited letters of credit from a federal home loan bank, securities of the United States, or of a state, county, district or municipal corporation, or federal agency securities: *Provided*, That a banking institution is not required to provide a bond or security in lieu of bond if the deposits accepted are placed in certificates of deposit meeting the following requirements: (1) The funds are invested through a designated state depository selected by the county board of education; (2) the selected depository arranges for the deposit of the funds in certificates of deposit in one or more banks or savings and loan associations wherever located in the United States, for the account of the county board of education; (3) the full amount of principal and accrued interest of each certificate of deposit is insured by the Federal Deposit Insurance Corporation; (4) the selected depository acts as custodian for the county board of education with respect to such certificates of deposit

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issued for the county's account; and (5) on the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations: *Provided, however*, That a banking institution is not required to provide a bond or security in lieu of bond if the deposits accepted are placed in a designated state depository that is selected and authorized by the county board of education to arrange for the redeposit of the funds through a deposit placement program that meets the following conditions: (1) On or after the date that the county board of education funds are received the selected depository: (i) Arranges for the redeposit of the funds into deposit accounts in one or more federally insured banks or savings and loan associations that are located in the United States; and (ii) serves as custodian for the county with respect to the money redeposited into such accounts. (2) County board of education funds deposited in a selected depository in accordance with this section and held at the close of business in the selected depository in excess of the amount insured by the Federal Deposit Insurance Corporation shall be secured in accordance with the second and third sentences of this paragraph. (3) The full amount of the funds of the county board of education redeposited by the selected depository into deposit accounts in banks or savings and loan associations pursuant to this section (plus accrued interest, if any) shall be insured by the Federal Deposit Insurance Corporation. (4) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

One hundred ten percent of the face or par value of the securities may not be less than the sum hereinbefore specified as the amount to be named in the bond in lieu of which the securities are accepted, or the county board of education may accept the securities as partial security to the extent of their face value for the money so deposited and require bond for the remainder of the full amount hereinbefore specified, to be named in the bond, and, in the bond so required, the acceptance of securities as partial security and the extent thereof shall be set forth. The hypothecation of the securities shall be by proper legal transfer as collateral security to protect and indemnify by trust any and all loss in case of any default on the part of the banking institution in its capacity as depository as aforesaid. All such securities shall be delivered to or deposited for the account of the county board of education, and withdrawal or substitution thereof may be permitted from time to time upon approval by the county board of education by order of record, but the collateral security shall be released only by order of record of the county board of education when satisfied that full and faithful accounting and payment of all the moneys has been made under the provisions hereof. If actual possession of the hypothecated securities is delivered to the county board of education, it shall make ample provision for the safekeeping thereof, and the interest thereon when paid shall be turned over to the banking institution, so long as it is not in default as aforesaid. The county board of education may permit the deposit under proper receipt of such securities with one or more banking institutions within the State of West Virginia and may contract with any such institution for safekeeping and exchange of any such hypothecated securities, and may prescribe the rules for handling and protecting the same.

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On and after July 1, 1973, all levies and any other school moneys received by the sheriff and paid to the treasurer of the county board of education shall be deposited in these accounts, and all proper payments from such funds shall be made by the designated depository or bank upon order or draft presented for payment and signed by the duly authorized signatories of the Board of Education: *Provided*, That in determining the depository for Board of Education funds a board member who has a pecuniary interest in a bank within the county shall not participate in the determination of the depository for such funds.

If it is considered that sufficient funds are on hand in any account at any one time which may be more than are normally required for the payment of incurred expenses, the funds in the amount so considered available may be invested by the treasurer of the county board with the West Virginia Municipal Bond Commission, or in guaranteed certificates of deposit issued by the depository or bank, or other guaranteed investments such as treasury bills, treasury notes or certificates of deposit issued by either the United States government or a banking institution in which federal or state guarantees are applicable. Interest earned in such investments is to be credited to the fund from which the moneys were originally available.

WV Legislature

§18-9-6a. County Board of Education treasurer authorized to make funds available to state Board of Investments; allocation of income.

Notwithstanding any other provision of this code, when it appears to any of the various county boards of education that funds on deposit in its demand deposit account exceed the current requirements or demands, and it further be determined by the treasurer for such county board of education that the available interest rate offered by an acceptable depository in such treasurer's county be less than the interest rate, net of administrative fees referred to in article six, chapter twelve of this code, offered it through the state Board of Investments, the county board of education treasurer may, with the approval in writing of each county board of education whose funds are involved, make such funds available to the state Board of Investments for investment in accordance with the provisions of said article six, chapter twelve of the code. Any county board of education treasurer may enter into an agreement with any state agency from which they receive funds to allow such funds to be transferred to their investment account with the state Board of Investments.

Any income earned on such investment shall be allocated by such treasurer to the board of Education whose funds were made available, such allocation to be made in accordance with the accounting and allocation principles established by the board of Investments.

WV Legislature

§18-9-7.

Repealed.

Acts, 2013 Reg. Sess., Ch. 56.

WV Legislature

§18-9-8.

Repealed.

Acts, 2013 Reg. Sess., Ch. 56.

WV Legislature