WEST VIRGINIA CODE: §51-9-3

§51-9-3. Custody, permissible investment and administration of retirement system trust fund; State Auditor's authority as administrator and trust fund fiduciary; refunds required, including interest; federal qualification requirements.

(a) The State Treasurer shall be the custodian of the fund and of any investment securities of the retirement system and shall give a separate and additional bond for the faithful performance of his or her duties as such custodian. The Governor shall fix the amount of such bond which shall be approved as to sufficiency and form by the Attorney General and shall be filed in the office of the Secretary of State. The premium on such bond shall be paid from the fund.

(b) In a manner and to an extent consonant with sound administrative principles, the state Board of Investments shall have authority to invest such fund in interest-bearing securities of the United States of America, of the State of West Virginia and of any political subdivision thereof or such other investments as may be authorized or permitted by the provisions of article six, chapter twelve of this code.

(c) The State Auditor shall be the primary fiscal officer, responsible for the records and administration of the trust fund, including budgetary matters incident to the authority vested in him or her with respect to judicial department appropriations under article VI, section fifty-one of the Constitution of West Virginia. The State Auditor shall also, as trust fund fiduciary, independently determine anew, in a substantive sense and as a check and balance, any information concerning eligible service years, required money contributions, computation of judge's retirement benefit or spousal benefit or any other substantive element of qualification supplied or certified to the State Auditor by any other public officer, including the supreme court administrator or the chief executive, toward proper final review before issuance of a state warrant in payment of any benefit under the judges' retirement system.

(d) Through June 30, 1991, the State Auditor shall be the primary fiscal officer, responsible for the records and administration of the trust fund, including budgetary matter incident to the authority vested in him or her with respect to judicial department appropriations under article VI, section fifty-one of the Constitution of West Virginia. The State Auditor shall also, as trust fund fiduciary, independently determine anew, in a substantive sense and as a check and balance, any information concerning eligible service years, required money contributions, computation of judge's retirement benefit or spousal benefit or any other substantial element of qualification supplied or certified to the State Auditor by any other public officer, including the supreme court administrator or the chief executive, toward proper final review before issuance of a state warrant in payment of any benefit under the judges' retirement system. From July 1, 1991 and thereafter, the funds shall be administered by the Consolidated Public Retirement Board created by article ten-d, chapter five of this code.

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(e) In respect of any credited service heretofore acquired under the Dostert decision and subsequent related decisions, the State Auditor shall make refund to any person heretofore making payment to acquire such service credit, primary or derivative, in the amount so earlier paid, together with interest at the same rate such sum actually earned because of its investment by the Auditor or treasurer, as the case may be, in the consolidated pension pool or with the interest such sum would have earned if timely invested in such pool, whichever amount of interest be greater.

(f) The retirement system is intended to meet the federal qualification requirements of Section 401(a) and related sections of the Internal Revenue Code as applicable to governmental plans. Notwithstanding any other provision of state law, the board shall administer the retirement system to fulfill this intent for the exclusive benefit of the members and their beneficiaries. Any provision of this article referencing or relating to these federal qualification requirements shall be effective as of the date required by federal law. The board may promulgate rules and amend or repeal conflicting rules in accordance with the authority granted to the board pursuant to section one, article ten-d, chapter five of this code to assure compliance with the requirements of this section.

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