W EST V IRGINIA L EGISLATURE
R EGULAR S ESSION, 1981

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S ENATE B ILL N O. 574

(B y M r . H e r m a n N e l s o n)

P ASSED A pr il 13 , 1981
In E ffect J uly 1 , 1981
AN ACT to amend and reenact section two, article one, section two, article two, section nine, article four, and sections two and ten, article six, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended; relating to depositories for demand deposits, itemized record of moneys received for deposit, absence of auditor or treasurer, definitions in the "Investment Management Law" and restrictions on investments.

Be it enacted by the Legislature of West Virginia:

That section two, article one, section two, article two, section nine, article four, and sections two and ten, article six, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended as follows:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-2. Depositories for demand deposits; categories of demand deposits; competitive bidding for disbursement accounts; maintenance of deposits by treasurer.

1 The state board of investments shall designate the state and national banks in this state which shall serve as depositories for all state funds placed in demand deposits. Any such state or national bank shall, upon request to such board, be designated as a state depository for such deposits, if such bank meets the requirements set forth in this chapter.

2 Demand deposit accounts shall consist of receipt, disbursement and investment accounts. Receipt accounts shall be those accounts in which are deposited moneys...
belonging to or due the state of West Virginia or any official, department, board, commission or agency, thereof.

Disbursement accounts shall be those accounts from which are paid moneys due from the state of West Virginia or any official, department, board, commission, political subdivision or agency thereof to any political subdivision, person, firm or corporation except moneys paid from investment accounts.

Investment accounts shall be those accounts established by the treasurer or board of investments for the buying and selling of securities for investment for the state of West Virginia or any official, department, board, commission or agency thereof or to meet obligations to paying agents or for paying charges incurred for the custody, safekeeping and management of such securities pursuant to the provisions of section five, article five of this chapter, or for paying the charges of any bank or trust company acting as paying agent or copaying agent for a bond issue of the state pursuant to the provisions of section seven-a, article one, chapter fifty-seven of this code.

The board of investments shall promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of the code of West Virginia, as amended, concerning depositories for receipt accounts and investment accounts prescribing the selection criteria, procedures, compensation and such other contractual terms as it considers to be in the best interests of the state giving due consideration to: (1) The activity of the various accounts maintained therein; (2) the reasonable value of the banking services rendered or to be rendered the state by such depositories; and (3) the value and importance of such deposits to the economy of the communities and the various areas of the state affected thereby.

The board of investments shall select depositories for disbursement accounts through competitive bidding by eligible banks in this state: Provided, That funds in disbursement accounts shall be proportionately distributed among the following categories of such depositories, based upon the total assets of such depository: (a) Depositories whose total assets are not greater than twenty-five million dollars; (b) depositories whose total assets are greater than twenty-five million dollars but not greater than fifty million dollars; or (c) depositories whose total assets are greater than
fifty million dollars. The board shall promulgate rules and
regulations, in accordance with the provisions of chapter
twenty-nine-a of the code of West Virginia, as amended,
prescribing the procedures and criteria for such bidding and
selection. It shall, in its invitations for bids, specify the
approximate amounts of deposits, the duration of contracts to
be awarded and such other contractual terms as it considers
to be in the best interests of the state, consistent with
obtaining the most efficient service at the lowest cost:
Provided, however, That the depositories for such
disbursement accounts shall be determined by the board
through competitive bidding separately for each category of
depositories created in this section.
The amount of money needed for current operation
purposes of the state government, as determined by the state
treasurer, shall be maintained at all times in the state
treasury, in cash or in disbursement accounts with banks
designated as depositories in accordance with the provisions
of this section. No state officer or employee shall make or
cause to be made any deposits of state funds in banks not so
designated.

ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER AMOUNTS
DUE THE STATE OR ANY POLITICAL SUBDIVISION.

§12-2-2. Itemized record or moneys received for deposit;
regulations governing deposits; credit to state fund;
exceptions.

All officials and employees of the state authorized by
statute to accept moneys due the state of West Virginia shall
keep a daily itemized record of such moneys so received for
deposit in the state treasury and shall deposit within
twenty-four hours with the state treasurer all moneys
received or collected by them for or on behalf of the state for
any purpose whatsoever. The treasurer shall promulgate
rules and regulations, in accordance with the provisions of
chapter twenty-nine-a of the code of West Virginia, as
amended, governing the procedure for such deposits. When
so paid, such moneys shall be credited to the state fund and
treated by the auditor and treasurer as part of the general
revenue of the state, and shall not be used for any purpose
whatsoever unless and until authorized and directed by the
Legislature, except the following funds:
(a) All moneys received out of appropriations made by the Congress of the United States;
(b) All funds derived from the sale of farm and dairy products from farms operated by any agency of state government other than the farm management commission;
(c) All endowment funds, bequests, donations, executive emergency funds, and death and disability funds;
(d) All fees and funds collected at state educational institutions for student activities;
(e) All funds derived from collections from dormitories, boardinghouses, cafeterias and road camps;
(f) All moneys received from counties by institutions for the deaf and blind on account of clothing for indigent pupils;
(g) All insurance collected on account of losses by fire and refunds;
(h) All funds derived from bookstores and sales of blank paper and stationery; and collections by the chief inspector of public offices;
(i) All moneys collected and belonging to the capitol building fund, state road fund, state road sinking funds, general school fund, school fund, state fund (moneys belonging to counties, districts and municipalities), state interest and sinking funds, state compensation funds, the fund maintained by the public service commission for the investigation and supervision of applications and licenses under article nine, chapter thirty-one of this code, and all funds and moneys payable to or received by the natural resources commission of West Virginia;
(j) All moneys collected or received under any act of the Legislature providing that funds collected or received thereunder shall be used for specific purposes.

All moneys, excepted as aforesaid, shall be paid into the state treasury in the same manner as collections not so excepted, and shall be carried in separate accounts to be used and expended only for the purposes for which the same are authorized to be collected by law. The gross amount collected in all cases shall be paid into the state treasury, and commissions, costs and expenses of collection authorized by general law to be paid out of the gross collection are hereby authorized to be paid out of the moneys collected and paid into the state treasury in the same manner as other payments are made from the state treasury.
The official or employee making such deposits in the state treasury shall prepare such deposit lists in such manner and upon such report forms as may be prescribed by the treasurer. The original of this report shall accompany the deposit to the treasurer's office. Certified or receipted copies shall be immediately forwarded by the state treasurer to the state auditor and to the commissioner of finance and administration, and a copy shall be kept by the official or employee making the report and shall become a part of his permanent record.

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

§12-4-9. Absence of auditor or treasurer.
1 When it is necessary for either of the said officers to be absent, the other shall be informed thereof. During such absence, the duties of the officer so absent may be performed by the chief clerk in his office. But if such absence be for more than a day at any one time, the governor may appoint a proper person to discharge the duties of such officer during his absence. In either case, the absent officer and his sureties shall be liable for any malconduct or neglect of the chief clerk or person so acting in his place. Notwithstanding restrictions which may otherwise be provided by law concerning membership on any board, agency or commission, the auditor and treasurer each may designate a representative who is authorized to act for and on their behalf in any and all matters relating to such memberships.

ARTICLE 6. WEST VIRGINIA STATE BOARD OF INVESTMENTS.

§12-6-2. Definitions.
1 As used in this article, unless a different meaning clearly appears from the context:
2 (1) “Board” means the West Virginia state board of investments;
3 (2) “Consolidated fund” means the investment fund managed by the board and established pursuant to subsection (b), section eight of this article;
4 (3) “Consolidated pension fund” means the investment fund managed by the board and established pursuant to subsection (a), section eight of this article;
5 (4) “Local government account” means the account within the consolidated fund established pursuant to subsection (b), section eight of this article;
(5) "Local government funds" means the moneys of a political subdivision transferred to the board for deposit in the local government account;
(6) "Pension funds" means and includes the workmen's compensation fund; the state teachers retirement system funds; the death, disability and retirement fund for members of the department of public safety; the public employees retirement system funds; the judges retirement fund; and such other retirement or pension funds and systems as may be hereafter established on behalf of public employees of the state or of its political subdivisions and administered by the state;
(7) "Political subdivision" means and includes a county, municipality, or any agency, authority, board, commission or instrumentality of a county or municipality, and regional councils created pursuant to the provisions of section five, article twenty-five, chapter eight of this code;
(8) "Securities" means all bonds, notes, debentures or other evidences of indebtedness, and shall not mean corporate stock;
(9) "State account" means the account within the consolidated fund established pursuant to subsection (b), section eight of this article; and
(10) "State funds" means all moneys of the state which may be lawfully invested except (a) the pension funds (as defined in subdivision (6) of this section) and (b) the "school fund" established by section four, article XII of the state constitution.

§12-6-10. Restrictions on investments.
Moneys on deposit in the consolidated fund and the consolidated pension fund shall be invested as permitted by section nine of this article subject to the restrictions and conditions contained in this section:
(1) At no time shall more than seventy-five percent of the portfolio of either fund be invested in securities described in subdivision (g) of said section nine;
(2) At no time shall more than twenty percent of the portfolio of either fund be invested in securities described in said subdivision (g) which mature within one year from the date of issuance thereof;
(3) At no time shall more than three percent of the
portfolio of either fund be invested in securities issued by a single private corporation or association.

For the purpose of making the computations required by this section, securities shall be valued in accordance with generally accepted accounting principles.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Baysden  
Chairman Senate Committee

Tony E. White
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1981.

Judd C. Wills
Clerk of the Senate

Walter J. Bankership
Clerk of the House of Delegates

Chet C. Skeffington
President of the Senate

Alex M. Slocum
Speaker House of Delegates

The within________________________this the________________________day of________________________, 1981.

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Governor