

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time _____

NO. 574

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

SENATE BILL NO. 574

(By Mr. Harman & Ms. Nelson)



PASSED April 10, 1981

In Effect July 1, 1981 ~~Passage~~



ENROLLED
Senate Bill No. 574
(By MR. HARMAN and MR. NELSON)

[Passed April 10, 1981; in effect July 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
2 national banks in this state which shall serve as depositories
3 for all state funds placed in demand deposits. Any such state
4 or national bank shall, upon request to such board, be
5 designated as a state depository for such deposits, if such
6 bank meets the requirements set forth in this chapter.

7 Demand deposit accounts shall consist of receipt,
8 disbursement and investment accounts. Receipt accounts
9 shall be those accounts in which are deposited moneys

10 belonging to or due the state of West Virginia or any official,
11 department, board, commission or agency, thereof.

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

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

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

42 The board of investments shall select depositories for
43 disbursement accounts through competitive bidding by
44 eligible banks in this state: *Provided*, That funds in
45 disbursement accounts shall be proportionately distributed
46 among the following categories of such depositories, based
47 upon the total assets of such depository: (a) Depositories
48 whose total assets are not greater than twenty-five million
49 dollars; (b) depositories whose total assets are greater than
50 twenty-five million dollars but not greater than fifty million
51 dollars; or (c) depositories whose total assets are greater than

52 fifty million dollars. The board shall promulgate rules and
 53 regulations, in accordance with the provisions of chapter
 54 twenty-nine-a of the code of West Virginia, as amended,
 55 prescribing the procedures and criteria for such bidding and
 56 selection. It shall, in its invitations for bids, specify the
 57 approximate amounts of deposits, the duration of contracts to
 58 be awarded and such other contractual terms as it considers
 59 to be in the best interests of the state, consistent with
 60 obtaining the most efficient service at the lowest cost:
 61 *Provided, however,* That the depositories for such
 62 disbursement accounts shall be determined by the board
 63 through competitive bidding separately for each category of
 64 depositories created in this section.

65 The amount of money needed for current operation
 66 purposes of the state government, as determined by the state
 67 treasurer, shall be maintained at all times in the state
 68 treasury, in cash or in disbursement accounts with banks
 69 designated as depositories in accordance with the provisions
 70 of this section. No state officer or employee shall make or
 71 cause to be made any deposits of state funds in banks not so
 72 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.**

1 All officials and employees of the state authorized by
 2 statute to accept moneys due the state of West Virginia shall
 3 keep a daily itemized record of such moneys so received for
 4 deposit in the state treasury and shall deposit within
 5 twenty-four hours with the state treasurer all moneys
 6 received or collected by them for or on behalf of the state for
 7 any purpose whatsoever. The treasurer shall promulgate
 8 rules and regulations, in accordance with the provisions of
 9 chapter twenty-nine-a of the code of West Virginia, as
 10 amended, governing the procedure for such deposits. When
 11 so paid, such moneys shall be credited to the state fund and
 12 treated by the auditor and treasurer as part of the general
 13 revenue of the state, and shall not be used for any purpose
 14 whatsoever unless and until authorized and directed by the
 15 Legislature, except the following funds:

16 (a) All moneys received out of appropriations made by the
17 Congress of the United States;

18 (b) All funds derived from the sale of farm and dairy
19 products from farms operated by any agency of state
20 government other than the farm management commission;

21 (c) All endowment funds, bequests, donations, executive
22 emergency funds, and death and disability funds;

23 (d) All fees and funds collected at state educational
24 institutions for student activities;

25 (e) All funds derived from collections from dormitories,
26 boardinghouses, cafeterias and road camps;

27 (f) All moneys received from counties by institutions for
28 the deaf and blind on account of clothing for indigent pupils;

29 (g) All insurance collected on account of losses by fire and
30 refunds;

31 (h) All funds derived from bookstores and sales of blank
32 paper and stationery; and collections by the chief inspector of
33 public offices;

34 (i) All moneys collected and belonging to the capitol
35 building fund, state road fund, state road sinking funds,
36 general school fund, school fund, state fund (moneys
37 belonging to counties, districts and municipalities), state
38 interest and sinking funds, state compensation funds, the
39 fund maintained by the public service commission for the
40 investigation and supervision of applications and licenses
41 under article nine, chapter thirty-one of this code, and all
42 funds and moneys payable to or received by the natural
43 resources commission of West Virginia;

44 (j) All moneys collected or received under any act of the
45 Legislature providing that funds collected or received
46 thereunder shall be used for specific purposes.

47 All moneys, excepted as aforesaid, shall be paid into the
48 state treasury in the same manner as collections not so
49 excepted, and shall be carried in separate accounts to be used
50 and expended only for the purposes for which the same are
51 authorized to be collected by law. The gross amount collected
52 in all cases shall be paid into the state treasury, and
53 commissions, costs and expenses of collection authorized by
54 general law to be paid out of the gross collection are hereby
55 authorized to be paid out of the moneys collected and paid
56 into the state treasury in the same manner as other payments
57 are made from the state treasury.

58 The official or employee making such deposits in the state
 59 treasury shall prepare such deposit lists in such manner and
 60 upon such report forms as may be prescribed by the
 61 treasurer. The original of this report shall accompany the
 62 deposit to the treasurer's office. Certified or receipted copies
 63 shall be immediately forwarded by the state treasurer to the
 64 state auditor and to the commissioner of finance and
 65 administration, and a copy shall be kept by the official or
 66 employee making the report and shall become a part of his
 67 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
 2 absent, the other shall be informed thereof. During such
 3 absence, the duties of the officer so absent may be performed
 4 by the chief clerk in his office. But if such absence be for
 5 more than a day at any one time, the governor may appoint a
 6 proper person to discharge the duties of such officer during
 7 his absence. In either case, the absent officer and his sureties
 8 shall be liable for any malconduct or neglect of the chief clerk
 9 or person so acting in his place. Notwithstanding restrictions
 10 which may otherwise be provided by law concerning
 11 membership on any board, agency or commission, the
 12 auditor and treasurer each may designate a representative
 13 who is authorized to act for and on their behalf in any and all
 14 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
 2 appears from the context:
 3 (1) "Board" means the West Virginia state board of
 4 investments;
 5 (2) "Consolidated fund" means the investment fund
 6 managed by the board and established pursuant to
 7 subsection (b), section eight of this article;
 8 (3) "Consolidated pension fund" means the investment
 9 fund managed by the board and established pursuant to
 10 subsection (a), section eight of this article;
 11 (4) "Local government account" means the account
 12 within the consolidated fund established pursuant to
 13 subsection (b), section eight of this article;

14 (5) "Local government funds" means the moneys of a
15 political subdivision transferred to the board for deposit in
16 the local government account;

17 (6) "Pension funds" means and includes the workmen's
18 compensation fund; the state teachers retirement system
19 funds; the death, disability and retirement fund for members
20 of the department of public safety; the public employees
21 retirement system funds; the judges retirement fund; and
22 such other retirement or pension funds and systems as may
23 be hereafter established on behalf of public employees of the
24 state or of its political subdivisions and administered by the
25 state;

26 (7) "Political subdivision" means and includes a county,
27 municipality, or any agency, authority, board, commission or
28 instrumentality of a county or municipality, and regional
29 councils created pursuant to the provisions of section five,
30 article twenty-five, chapter eight of this code;

31 (8) "Securities" means all bonds, notes, debentures or
32 other evidences of indebtedness, and shall not mean
33 corporate stock;

34 (9) "State account" means the account within the
35 consolidated fund established pursuant to subsection (b),
36 section eight of this article; and

37 (10) "State funds" means all moneys of the state which
38 may be lawfully invested except (a) the pension funds (as
39 defined in subdivision (6) of this section) and (b) the "school
40 fund" established by section four, article XII of the state
41 constitution.

§12-6-10. Restrictions on investments.

1 Moneys on deposit in the consolidated fund and the
2 consolidated pension fund shall be invested as permitted by
3 section nine of this article subject to the restrictions and
4 conditions contained in this section:

5 (1) At no time shall more than seventy-five percent of the
6 portfolio of either fund be invested in securities described in
7 subdivision (g) of said section nine;

8 (2) At no time shall more than twenty percent of the
9 portfolio of either fund be invested in securities described in
10 said subdivision (g) which mature within one year from the
11 date of issuance thereof;

12 (3) At no time shall more than three percent of the

13 portfolio of either fund be invested in securities issued by a
14 single private corporation or association.

15 For the purpose of making the computations required by
16 this section, securities shall be valued in accordance with
17 generally accepted accounting principles.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Bayler
Chairman Senate Committee

Tommy E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1981.

Todd C. Willis
Clerk of the Senate

U. Blankenship
Clerk of the House of Delegates

W. R. ...
President of the Senate

Walter H. Seeger, Jr.
Speaker House of Delegates

The within incurred this the 29

day of April, 1981.

Paul R. ...
Governor

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SECY. OF STATE

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