WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

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ENROLLED

HOUSE BILL No. 2023

(By Mr. William)

Passed March 12, 1983

In Effect July 1, 1983
AN ACT to amend and reenact section two, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article two of said chapter; to amend and reenact section twelve, article four of said chapter; to amend and reenact sections two, six, eight and nine, article six of said chapter; and to amend and reenact section six-a, article nine, chapter eighteen of said code, all relating to depositories for demand deposits; categories of demand deposits; competitive bidding for disbursement accounts; maintenance of deposits by treasurer; itemized record of moneys received for deposit; regulations governing deposits; credit to state fund; exceptions; treasurer authorized to provide check-cashing service; establishment and audit of cash funds; definitions; costs and expenses; fees for services; investment funds established; management thereof; permissible investments; and school finances.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section two, article two of said chapter be amended and reenacted; that section twelve, article four of said chapter be amended and reenacted; that sections two, six, eight and nine, article six of said chapter be amended and reenacted; and that section six-a, article nine, chapter eighteen of said code be amended and reenacted, all to read as follows:
CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE I. STATE DEPOSITORIES.

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

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.

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. 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.

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 of 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 this code 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: Provided,
That all moneys received out of appropriations made by the
Congress of the United States shall be carried in special fund
accounts, apart from the general revenues of the state,
in the state treasury and all such moneys shall not be used
for any purpose whatsoever unless and until authorized and
directed by the Legislature, excepting the following funds which
shall be carried in separate accounts:

(a) All funds excluded by the provisions of section six,
article eleven, chapter four of this code;

(b) All funds derived from the sale of farm and dairy pro-
ducts from farms operated by any agency of the 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 in-
stitutions 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 belong-
ing 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 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.

The state treasurer shall have authority to establish an imprest fund or funds in the office of any state agency or institution making proper application to him. To implement this authority the treasurer shall promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code. The treasurer or his designee shall annually audit all such funds and prepare a list of all such funds showing the location and amount as of fiscal year end, retaining such list as a permanent record of the treasurer's office until such time as the legislative auditor shall have completed an audit of the imprest funds of all agencies and institutions involved.

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
ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

§12-4-12. Treasurer authorized to provide check-cashing service; establishment and audit of cash funds.

The treasurer may provide a check-cashing service at his office in the capitol building and may charge fees for such service for each check cashed and for each check returned for insufficient funds. For this purpose, he may establish from receipts is the treasury not more than two cash funds each in an initial amount not to exceed one hundred thousand dollars. He shall designate certain employees in his office who are to provide the service and have charge of such funds, and may require such employees to be bonded either individually or by blanket bonds. The cost of such bond or bonds shall be paid out of the treasurer's current expense appropriation.

The fees received for such service shall be deposited in the cash funds and itemized accounts of such receipts shall be maintained. Any check determined by the treasurer to be uncollectible shall be charged against the fund from which it was cashed. The legislative auditor shall, at least annually, but may at any time, audit the cash funds and all accounts and records relating to the service provided pursuant to this section. If the amount of either cash fund (after charges for uncollectible checks) exceeds one hundred thousand dollars at the conclusion of any audit, the treasurer shall transfer such excess to the general revenue fund.

ARTICLE 6. WEST VIRGINIA STATE BOARD OF INVESTMENTS.

§12-6-2. Definitions.

As used in this article, unless a different meaning clearly appears from the context:

(1) "Board means the West Virginia state board of investments;
(2) "Consolidated fund" means the investment fund managed by the board and established pursuant to subsection (b), section eight of this article;

(3) "Consolidated pension fund" means the investment fund managed by the board and established pursuant to subsection (a), section eight of this article;

(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, including policemen's pension and relief funds, firemen's pension and relief funds and volunteer fire departments, 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; or pension funds established on behalf of public employees of its political subdivisions and administered by the political subdivisions;

(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 fund (as defined in subdivision (6) of this section) and (b) the "school fund" established by section four, article XII of the state constitution.

§12-6-6. Costs and expenses; fees for services.

All costs and expenses of the board including fees of professional consultants, advisors and auditors, brokerage commissions and all other necessary expenses of the board incurred in the performance of its functions shall be proper charges against, and payable on a pro rata basis from, the earnings of the various funds managed by the board.

§12-6-8. Investment funds established; management thereof.

(a) There is hereby established a special investment fund to be managed by the board and designated as the "consolidated pension fund" for the common investment of pension funds. All administrators, custodians or trustees of the various pension funds are hereby authorized to make moneys available to the board for investment. Pension funds received by the board shall be deposited in the consolidated pension fund. Any security deposited by the various pension funds shall be valued at the prevailing market price on the day of deposit.

(b) There is hereby also established a special investment fund to be managed by the board and designated as the "consolidated fund." The consolidated fund shall consist of a special account for the common investment of state funds designated as the "state account" and a special account for the common investment of local government funds designated as the "local government account." Moneys in both accounts may be combined for the common investment of the consolidated fund on an equitable basis.

(c) Each board, commission, department, official or agency charged with the administration of state funds is hereby authorized to make moneys available to the board for investment. State funds received by the board shall be deposited in the state account.

(d) Each political subdivision of this state through its
treasurer or equivalent financial officer is hereby authorized to enter into agreements with the board for the investment of moneys of such political subdivision: Provided, That it first be determined by the treasurer for such political subdivision 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. Local government funds received by the board pursuant to such agreements shall be deposited in the local government account. Any political subdivision may enter into an agreement with any state agency from which it receives funds to allow such funds to be transferred to their investment account with the state board of investments.

(e) Each county board of education through its treasurer is hereby authorized to enter into agreements with the board of investments for the investment of moneys of such county board of education: Provided, however, That it first 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.

(f) Moneys held in the various funds and accounts administered by the board shall be invested as permitted in section nine and subject to the restrictions contained in section ten of this article. The board shall maintain records of the deposits and withdrawals of each participant and the performance of the various funds and accounts. The board shall also establish such rules and regulations for the administration of the various funds and accounts established by this section as it shall deem necessary for the administration thereof, including, but not limited to: (1) The specification of minimum amounts which may be deposited in any fund or account and minimum periods of time for which deposits will be retained; (2) creation of reserves for losses; (3) provision for payment of expenses from earnings; and (4) distribution of the earnings in excess of such expenses
or allocation of losses to the several participants in an equitable manner; Provided, That in the event any moneys made available to the board may not lawfully be combined for investment or deposited in the consolidated funds established by this section, the board may create special accounts and may administer and invest such moneys in accordance with the restrictions specially applicable thereto.

(g) The board shall at all times maintain and have available for public inspection a report containing monthly balances in the treasury, which said balances shall include, but not be limited to, the following:

(a) Total local government account balance.
(b) General Revenue surplus balance.
(c) General Revenue surplus appropriation account balance.
(d) State General Revenue reappropriated account balance.
(e) State General Revenue current account balance.
(f) Total State Account Balance.
(g) Total General Revenue.
(h) Total of State Account Balance which is invested longer than overnight.
(i) Total of State Account Balance which is invested overnight.

The Board shall not be required to make such information available until January 1, 1984: Provided, however, That the Board shall have such reports available on a daily basis for each day the Legislature is in session.


Notwithstanding the restrictions which may otherwise be provided by law as to the investment of funds, the board may invest funds made available to it in any of the following:

(a) Any direct obligation of, or obligation guaranteed as to the payment of both principal and interest by, the United States of America;
(b) Any evidence of indebtedness issued by any of the
following agencies: Government National Mortgage Associa-
tion, Federal Land Banks, Federal Home Loan Banks, Federal
Intermediate Credit Banks, Banks for Cooperatives, Tennessee
Valley Authority, United States Postal Service, Farmers Home
Administration, Export-Import Bank, Federal Financing Bank,
Federal Home Loan Mortgage Corporation, Student Loan
Marketing Association and Federal Farm Credit Banks;

(c) Any evidence of indebtedness issued by the Federal
National Mortgage Association to the extent such indebtedness
is guaranteed by the Government National Mortgage Asso-
ciation;

(d) Any evidence of indebtedness that is secured by a first
lien deed of trust or mortgage upon real property situate
within this state, if the payment thereof is substantially in-
sured or guaranteed by the United States of America or any
agency thereof;

(e) Direct and general obligations of this state;

(f) Any undivided interest in a trust, the corpus of which
is restricted to mortgages on real property and, unless all
of such property is situate within the state and insured, such
trust at the time of the acquisition of such undivided interest,
is rated in one of the three highest rating grades by an agency
which is nationally known in the field of rating pooled
mortgage trusts;

(g) Any bond, note, debenture, commercial paper or other
evidence of indebtedness of any private corporation or asso-
ciation organized and operating in the United States: Provided,
That any such security is, at the time of its acquisition, rated
in one of the three highest rating grades by an agency which
is nationally known in the field of rating corporate securities:
Provided, however, That if any commercial paper and/or
any such security will mature within one year from the date
of its issuance, it shall, at the time of its acquisition, be
rated in one of the two highest rating grades by such an
agency: Provided further, That any such security not rated
in one of the two highest rating grades by any such agency
and commercial paper or other evidence of indebtedness of any private corporation or association shall be purchased only upon the written recommendation from an investment adviser that has over three hundred million dollars in other funds under its management;

(h) Negotiable certificates of deposit issued by any bank, trust company, national banking association or savings institution organized and operating in the United States, which mature in less than one year and are fully collateralized;

(i) Interest earning deposits including certificates of deposit, with any duly designated state depository, which deposits are fully secured by a collaterally secured bond as provided in section four, article one of this chapter; and

CHAPTER 18. EDUCATION.

ARTICLE 9. SCHOOL FINANCES.

§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
20 by such treasurer to the board of education whose funds were
21 made available, such allocation to be made in accordance
22 with the accounting and allocation principles established by
23 the board of investments.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald Anello

Chairman House Committee

Originating in the House.

Takes effect July 1, 1983.

Clerk of the Senate

Donald L. Updegraff

Clerk of the House of Delegates

W. W. Bothum

President of the Senate

Speaker House of Delegates

The within ___________________ this the __29___

day of ______________________, 1983.

Governor