

No: 2023

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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

HOUSE BILL No. 2023

(By Mr. William.....)



Passed March 12..... 1983

In Effect July 1, 1983..... ~~Enacted~~



ENROLLED

H. B. 2023

(By MR. GILLIAM)

[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 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
2 and national banks in this state which shall serve as depositor-
3 ies for all state funds placed in demand deposits. Any such
4 state 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, disburse-
8 ment and investment accounts. Receipt accounts shall be
9 those accounts in which are deposited moneys belonging to
10 or due the state of West Virginia or any official, department,
11 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
16 or corporation except moneys paid from investment accounts.

17 Investment accounts shall be those accounts established
18 by 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
22 for 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
27 the provisions of section seven-a, article one, chapter fifty-
28 seven 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, com-
34 pensation and such other contractual terms as it considers
35 to be in the best interests of the state giving due considera-
36 tion to: (1) The activity of the various accounts maintained
37 therein; (2) the reasonable value of the banking services
38 rendered or to be rendered the state by such depositories;
39 and (3) the value and importance of such deposits to the
40 economy of the communities and the various areas of the
41 state affected thereby.

42 The board of investments shall select depositories for dis-
43bursement accounts through competitive bidding by eligible
44 banks in this state. The board shall promulgate rules and
45 regulations, in accordance with the provisions of chapter twen-
46 ty-nine-a of the code of West Virginia, as amended, prescrib-
47 ing the procedures and criteria for such bidding and selec-
48 tion. It shall, in its invitations for bids, specify the approxi-
49 mate amounts of deposits, the duration of contracts to be
50 awarded and such other contractual terms as it considers to
51 be in the best interests of the state, consistent with obtaining
52 the most efficient service at the lowest cost.

53 The amount of money needed for current operation pur-
54 poses of the state government, as determined by the state
55 treasurer, shall be maintained at all times in the state treasury,
56 in cash or in disbursement accounts with banks designated
57 as depositories in accordance with the provisions of this
58 section. No state officer or employee shall make or cause
59 to be made any deposits of state funds in banks not so
60 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; regula-
tions 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
3 shall keep a daily itemized record of such moneys so re-
4 ceived for deposit in the state treasury and shall deposit
5 within twenty-four hours with the state treasurer all moneys

6 received or collected by them for or on behalf of the state
7 for any purpose whatsoever. The treasurer shall promulgate
8 rules and regulations, in accordance with the provisions of
9 chapter twenty-nine-a of this code governing the procedure
10 for such deposits. When so paid, such moneys shall be
11 credited to the state fund and treated by the auditor and
12 treasurer as part of the general revenue of the state: *Provided*,
13 That all moneys received out of appropriations made by the
14 Congress of the United States shall be carried in special fund
15 accounts, apart from the general revenues of the state,
16 in the state treasury and all such moneys shall not be used
17 for any purpose whatsoever unless and until authorized and
18 directed by the Legislature, excepting the following funds which
19 shall be carried in separate accounts:

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

22 (b) All funds derived from the sale of farm and dairy pro-
23 ducts from farms operated by any agency of the state
24 government other than the farm management commission;

25 (c) All endowment funds, bequests, donations, executive
26 emergency funds, and death and disability funds;

27 (d) All fees and funds collected at state educational in-
28 stitutions for student activities;

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

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

34 (g) All insurance collected on account of losses by fire
35 and refunds;

36 (h) All funds derived from bookstores and sales of blank
37 paper and stationery, and collections by the chief inspector
38 of public offices;

39 (i) All moneys collected and belonging to the capitol
40 building fund, state road fund, state road sinking funds,
41 general school fund, school fund, state fund (moneys belong-

42 ing to counties, districts and municipalities), state interest
43 and sinking funds, state compensation funds, the fund main-
44 tained by the public service commission for the investigation
45 and supervision of applications and all funds and moneys
46 payable to or received by the natural resources commission
47 of West Virginia;

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

51 The state treasurer shall have authority to establish an
52 imprest fund or funds in the office of any state agency or
53 institution making proper application to him. To implement
54 this authority the treasurer shall promulgate rules and regu-
55 lations, in accordance with the provisions of chapter twenty-
56 nine-a of this code. The treasurer or his designee shall an-
57 nually audit all such funds and prepare a list of all such
58 funds showing the location and amount as of fiscal year
59 end, retaining such list as a permanent record of the treas-
60 urer's office until such time as the legislative auditor shall
61 have completed an audit of the imprest funds of all agencies
62 and institutions involved.

63 All moneys, excepted as aforesaid, shall be paid into the
64 state treasury in the same manner as collections not so ex-
65 cepted, and shall be carried in separate accounts to be used
66 and expended only for the purposes for which the same
67 are authorized to be collected by law. The gross amount
68 collected in all cases shall be paid into the state treasury,
69 and commissions, costs and expenses of collection authorized
70 by general law to be paid out of the gross collection are
71 hereby authorized to be paid out of the moneys collected
72 and paid into the state treasury in the same manner as other
73 payments are made from the state treasury.

74 The official or employee making such deposits in the
75 state treasury shall prepare such deposit lists in such manner
76 and upon such report forms as may be prescribed by the
77 treasurer. The original of this report shall accompany the
78 deposit to the treasurer's office. Certified or receipted copies
79 shall be immediately forwarded by the state treasurer to the

80 state auditor and to the commissioner of finance and ad-
81 ministration, and a copy shall be kept by the official or
82 employee making the report and shall become a part of his
83 permanent record.

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

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

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

13 The fees received for such service shall be deposited in
14 the cash funds and itemized accounts of such receipts shall
15 be maintained. Any check determined by the treasurer to
16 be uncollectible shall be charged against the fund from which
17 it was cashed. The legislative auditor shall, at least an-
18 nually, but may at any time, audit the cash funds and all
19 accounts and records relating to the service provided pur-
20 suant to this section. If the amount of either cash fund (after
21 charges for uncollectible checks) exceeds one hundred thou-
22 sand dollars at the conclusion of any audit, the treasurer
23 shall transfer such excess to the general revenue fund.

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 in-
4 vestments;

5 (2) "Consolidated fund" means the investment fund man-
6 aged by the board and established pursuant to subsection
7 (b), section eight of this article;

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

11 (4) "Local government account" means the account within
12 the consolidated fund established pursuant to subsection (b),
13 section eight of this article;

14 (5) "Local government funds" means the moneys of a
15 political subdivision, including policemen's pension and re-
16 lief funds, firemen's pension and relief funds and volunteer
17 fire departments, transferred to the board for deposit in the
18 local government account;

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

30 (7) "Political subdivision" means and includes a county,
31 municipality, or any agency, authority, board, commission or
32 instrumentality of a county or municipality, and regional coun-
33 cils created pursuant to the provisions of section five, article
34 twenty-five, chapter eight of this code;

35 (8) "Securities" means all bonds, notes, debentures or
36 other evidences of indebtedness and shall not mean corporate
37 stock;

38 (9) "State account" means the account within the consoli-
39 dated fund established pursuant to subsection (b), section
40 eight of this article; and

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

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

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

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

1 (a) There is hereby established a special investment fund
2 to be managed by the board and designated as the "con-
3 solidated pension fund" for the common investment of pension
4 funds. All administrators, custodians or trustees of the var-
5 ious pension funds are hereby authorized to make moneys
6 available to the board for investment. Pension funds received
7 by the board shall be deposited in the consolidated pension
8 fund. Any security deposited by the various pension funds
9 shall be valued at the prevailing market price on the day
10 of deposit.

11 (b) There is hereby also established a special investment
12 fund to be managed by the board and designated as the
13 "consolidated fund." The consolidated fund shall consist of
14 a special account for the common investment of state funds
15 designated as the "state account" and a special account for
16 the common investment of local government funds designated
17 as the "local government account." Moneys in both accounts
18 may be combined for the common investment of the con-
19 solidated fund on an equitable basis.

20 (c) Each board, commission, department, official or agency
21 charged with the administration of state funds is hereby
22 authorized to make moneys available to the board for invest-
23 ment. State funds received by the board shall be deposited
24 in the state account.

25 (d) Each political subdivision of this state through its

26 treasurer or equivalent financial officer is hereby authorized
27 to enter into agreements with the board for the investment
28 of moneys of such political subdivision: *Provided*, That it
29 first be determined by the treasurer for such political sub-
30 division that the available interest rate offered by an accep-
31 table depository in such treasurer's county be less than the
32 interest rate, net of administrative fees referred to in article
33 six, chapter twelve of this code, offered it through the state
34 board of investments. Local government funds received by
35 the board pursuant to such agreements shall be deposited in
36 the local government account. Any political subdivision may
37 enter into an agreement with any state agency from which
38 it receives funds to allow such funds to be transferred to
39 their investment account with the state board of investments.

40 (e) Each county board of education through its treasurer
41 is hereby authorized to enter into agreements with the board
42 of investments for the investment of moneys of such county
43 board of education: *Provided, however*, That it first be
44 determined by the treasurer for such county board of edu-
45 cation that the available interest rate offered by an accept-
46 able depository in such treasurer's county be less than the
47 interest rate, net of administrative fees referred to in article
48 six, chapter twelve of this code, offered it through the state
49 board of investments.

50 (f) Moneys held in the various funds and accounts ad-
51 ministered by the board shall be invested as permitted in
52 section nine and subject to the restrictions contained in
53 section ten of this article. The board shall maintain records
54 of the deposits and withdrawals of each participant and the
55 performance of the various funds and accounts. The board
56 shall also establish such rules and regulations for the ad-
57 ministration of the various funds and accounts established
58 by this section as it shall deem necessary for the administra-
59 tion thereof, including, but not limited to: (1) The specifica-
60 tion of minimum amounts which may be deposited in any
61 fund or account and minimum periods of time for which
62 deposits will be retained; (2) creation of reserves for losses;
63 (3) provision for payment of expenses from earnings; and
64 (4) distribution of the earnings in excess of such expenses

65 or allocation of losses to the several participants in an equit-
66 able manner: *Provided*, That in the event any moneys made
67 available to the board may not lawfully be combined for
68 investment or deposited in the consolidated funds established
69 by this section, the board may create special accounts and
70 may administer and invest such moneys in accordance with
71 the restrictions specially applicable thereto.

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

- 76 (a) Total local government account balance.
- 77 (b) General Revenue surplus balance.
- 78 (c) General Revenue surplus appropriation account balance.
- 79 (d) State General Revenue reappropriated account balance.
- 80 (e) State General Revenue current account balance.
- 81 (f) Total State Account Balance.
- 82 (g) Total General Revenue.
- 83 (h) Total of State Account Balance which is invested longer
84 than overnight.
- 85 (i) Total of State Account Balance which is invested over-
86 night.

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

§12-6-9. Permissible investments.

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

- 4 (a) Any direct obligation of, or obligation guaranteed as
5 to the payment of both principal and interest by, the United
6 States of America;

7 (b) Any evidence of indebtedness issued by any of the
8 following agencies: Government National Mortgage Associa-
9 tion, Federal Land Banks, Federal Home Loan Banks, Federal
10 Intermediate Credit Banks, Banks for Cooperatives, Tennessee
11 Valley Authority, United States Postal Service, Farmers Home
12 Administration, Export-Import Bank, Federal Financing Bank,
13 Federal Home Loan Mortgage Corporation, Student Loan
14 Marketing Association and Federal Farm Credit Banks;

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

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

24 (e) Direct and general obligations of this state;

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

32 (g) Any bond, note, debenture, commercial paper or other
33 evidence of indebtedness of any private corporation or asso-
34 ciation organized and operating in the United States: *Provided*,
35 That any such security is, at the time of its acquisition, rated
36 in one of the three highest rating grades by an agency which
37 is nationally known in the field of rating corporate securities:
38 *Provided, however*, That if any commercial paper and/or
39 any such security will mature within one year from the date
40 of its issuance, it shall, at the time of its acquisition, be
41 rated in one of the two highest rating grades by such an
42 agency: *Provided further*, That any such security not rated
43 in one of the two highest rating grades by any such agency

44 and commercial paper or other evidence of indebtedness of
45 any private corporation or association shall be purchased
46 only upon the written recommendation from an investment
47 adviser that has over three hundred million dollars in other
48 funds under its management;

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

53 (i) Interest earning deposits including certificates of de-
54 posit, with any duly designated state depository, which de-
55 posits are fully secured by a collaterally secured bond as
56 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.

1 Notwithstanding any other provision of this code, when
2 it appears to any of the various county boards of education
3 that funds on deposit in its demand deposit account exceed
4 the current requirements or demands, and it further be deter-
5 mined by the treasurer for such county board of education
6 that the available interest rate offered by an acceptable
7 depository in such treasurer's county be less than the interest
8 rate, net of administrative fees referred to in article six,
9 chapter twelve of this code, offered it through the state board
10 of investments, the county board of education treasurer may,
11 with the approval in writing of each county board of educa-
12 tion whose funds are involved, make such funds available to
13 the state board of investments for investment in accordance
14 with the provisions of said article six, chapter twelve of the
15 code. Any county board of education treasurer may enter
16 into an agreement with any state agency from which they
17 receive funds to allow such funds to be transferred to their
18 investment account with the state board of investments.

19 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

[Handwritten Signature]
Chairman Senate Committee

[Handwritten Signature]
Chairman House Committee

Originating in the House.

Takes effect July 1, 1983.

[Handwritten Signature]
Clerk of the Senate

[Handwritten Signature]
Clerk of the House of Delegates

[Handwritten Signature]
President of the Senate

[Handwritten Signature]
Speaker House of Delegates

The within is approved this the 29
day of March, 1983.

[Handwritten Signature]
Governor

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