

No: 2823

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



# ENROLLED

*Com Sub. for*  
**HOUSE BILL No. 2823**

(By Delegate *Mr. Speaker, Mr. Chambers*)  
*+ Del Swann*  
*[By request of the Executive]*



Passed *March 14,* ..... 1987

In Effect *Ninety Days From* ..... Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2823**

(By MR. SPEAKER, MR. CHAMBERS and DELEGATE SWANN)  
[By request of the Executive]

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[Passed March 14, 1987; in effect ninety days from passage.]

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AN ACT to amend and reenact sections eight-a, nine, eleven and twenty-three, article fifteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two, four and five, article eighteen-b of said chapter, all relating to confidentiality, equipment loans, borrowing of money, election of officers, short term investment of pool funds, amount of funds available, and reversion of pool funds.

*Be it enacted by the Legislature of West Virginia:*

That sections eight-a, nine, eleven and twenty-three, article fifteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections two, four and five, article eighteen-b of said chapter be amended and reenacted, all to read as follows:

**ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.**

**§31-15-8a. Documentary materials concerning trade secrets; commercial or financial information; or confidentiality.**

1 Any documentary material or data made or received  
2 by the authority for the purpose of furnishing assistance  
3 to a business, to the extent that such material or data  
4 consists of trade secrets or commercial or financial  
5 information regarding the operation of such business,  
6 shall not be considered public records and shall be  
7 exempt from disclosure pursuant to the provisions of  
8 chapter twenty-nine-b of this code. Any discussion or  
9 consideration of such trade secrets or commercial or  
10 financial information may be held by the authority in  
11 executive session closed to the public, notwithstanding  
12 the provisions of article nine-a, chapter six of this code:  
13 *Provided*, That the West Virginia economic development  
14 authority shall make publicly available the following  
15 information regarding executed loans which shall  
16 include: (1) name of debtor, (2) location(s) of the project,  
17 (3) amount of the West Virginia economic development  
18 authority loan, (4) the purpose of the loan, (5) the loan  
19 conditions of said executed loan, and (6) the fixed assets  
20 which serve as security for the loan.

**§31-15-9. Equipment loans.**

1 The authority may make loans for equipment as part  
2 of the industrial development projects, industrial  
3 subdivision projects, and projects for electrical power  
4 generating facilities, natural gas transmission lines, coal  
5 processing plants, other energy projects, export devel-  
6 opment, farm development, job development, forest  
7 development, industry assistance corporation projects  
8 and industrial and trade jobs development corporation  
9 projects, and improvements thereto, subject to the same  
10 application, loan and bond procedures and provisions as  
11 usually apply to loans issued under the provision of this  
12 article: *Provided*, That such loans shall be secured by  
13 a first lien on the equipment financed by the loan and  
14 shall be additionally secured by a deed of trust in real  
15 property and any improvements thereto, or by an  
16 unconditional letter of credit approved by the authority,  
17 or by any direct obligation of or obligation guaranteeing  
18 the payment of both principal and interest by the United  
19 States of America. The real property in which a security  
20 interest is taken may be the real property upon which

21 the equipment is situate or real property at a different  
22 location from the location of the equipment. Such  
23 additional security shall be upon such terms and in such  
24 amount satisfactory to the authority.

**§31-15-11. Borrowing of money.**

1 The borrowing of money and the notes, bonds and  
2 security interests evidencing any such borrowing shall  
3 be authorized by resolution approved by the board, shall  
4 bear such date or dates, and shall mature at such time  
5 or times, in the case of any such bonds, as such  
6 resolution or resolutions may provide. The notes, bonds  
7 and security interests shall bear interest at such rate or  
8 rates, be in such denominations, be in such form, either  
9 coupon or registered, carry such registration privileges,  
10 be executed in such manner, be payable in such medium  
11 of payment, at such place or places, and be subject to  
12 such terms or conditions of redemption as such resolu-  
13 tion or resolutions may provide.

**§31-15-23. Governing body; organization and meetings;  
quorum; powers.**

1 The governing body of the authority shall consist of  
2 the members of the authority acting as a board, which  
3 shall exercise all the powers given to the authority in  
4 this article. The governor or his designated representa-  
5 tive shall be chairman of the board and its chief  
6 executive officer. On the second Wednesday of July of  
7 each year, the board shall meet to elect a vice chairman  
8 and a secretary-treasurer from among its own members.

9 A majority of the members shall constitute a quorum  
10 for the purpose of conducting business. Except in the  
11 case of a loan application or unless the bylaws require  
12 a larger number, action may be taken by majority vote  
13 of the members present. Approval or rejection of a loan  
14 application shall be made by majority vote of the full  
15 membership of the board.

16 The board shall manage the property and business of  
17 the authority and prescribe, amend and repeal bylaws  
18 and rules and regulations governing the manner in  
19 which the business of the authority is conducted.

20 The governor shall provide staff services to the  
21 authority for administration of this article, including  
22 liaison between the authority and the industrial devel-  
23 opment agencies and related organizations and between  
24 the authority and other state agencies whose facilities  
25 and services may be useful to the authority in its work.  
26 The authority may reimburse any state spending unit  
27 for any special expense actually incurred in providing  
28 any service or the use of any facility to the authority.

29 The authority shall employ an executive director and  
30 any other personnel it determines necessary, and may  
31 appoint its own counsel and legal staff, and retain such  
32 temporary engineering, financial and other consultants  
33 or technicians as may be required for any special study  
34 or survey consistent with the provisions of this article.

**ARTICLE 18B. MORTGAGE AND INDUSTRIAL DEVELOPMENT  
INVESTMENT POOL.**

**§31-18B-2. Establishment of state mortgage and indus-  
trial development investment pool; invest-  
ment of worker's compensation funds and  
other funds in such pool; schedule of mo-  
neys invested; authority of state board of  
investments to invest funds from the pool in  
short-term investments; reversion of control  
of state board of investments.**

1 (a) There is hereby created and established a "state  
2 mortgage and industrial development investment pool"  
3 into which moneys shall be paid as provided in this  
4 section. The state mortgage and industrial development  
5 investment pool shall consist of a portion of the moneys  
6 and funds entrusted to the state board of investments  
7 by the commissioner of workers' compensation and other  
8 state agencies and organizations, which funds are  
9 invested by the state board of investments in long-term  
10 securities according to the provisions of this code:  
11 *Provided*, That no moneys or funds from any pension  
12 plan shall be invested in the state mortgage and  
13 industrial development investment pool.

14 (b) Notwithstanding any of the restrictions of section  
15 nine, article six, chapter twelve, the state board of

16 investments shall make available from the workers'  
17 compensation funds and other such funds which it  
18 invests, moneys for the state mortgage and industrial  
19 development investment pool. Such moneys shall be  
20 drawn from workers' compensation funds and other  
21 funds except pension funds currently invested by the  
22 state board of investments and shall be made available  
23 for investment on or before the dates established in  
24 subsection (c) of this section: *Provided*, That should the  
25 workers' compensation fund fall below three hundred  
26 million dollars, then no further transfers provided in  
27 this section be granted until the fund again reaches four  
28 hundred million dollars.

29 (c) The state board of investments shall make avail-  
30 able for investment in the state mortgage and industrial  
31 development investment pool the funds identified in  
32 subsections (a) and (b) of this section according to the  
33 following schedule:

34 (1) On the effective date of this act, twenty-five  
35 million dollars, of which twenty million dollars is to be  
36 deposited in the pool for investment by the housing  
37 development fund and five million dollars is to be  
38 deposited in the pool for investment by the economic  
39 development authority.

40 (2) On the first day of October, one thousand nine  
41 hundred eighty-two, twenty-five million dollars, of  
42 which twenty million is to be deposited in the pool for  
43 investment by the housing development fund, and five  
44 million is to be deposited in the pool for investment by  
45 the economic development authority.

46 (3) On the first day of January, one thousand nine  
47 hundred eighty-three, twenty-five million dollars, of  
48 which ten million dollars is to be deposited in the pool  
49 for investment by the housing development fund, and  
50 fifteen million dollars is to be deposited in the pool for  
51 investment by the economic development authority.

52 (4) On the first day of April, one thousand nine  
53 hundred eighty-three, twenty-five million dollars, all of  
54 which is to be deposited in the pool for investment by  
55 the economic development authority.

56 Investments by the housing development fund are to  
57 be made pursuant to the provisions of section three of  
58 this article, and by the economic development authority  
59 pursuant to section four of this article.

60 (d) The state board of investment may, after commit-  
61 ting these funds to the state mortgage and industrial  
62 development investment pool, at the discretion of the  
63 treasurer's office, invest the moneys of such pool in any  
64 short-term investments as may be deemed to be prudent  
65 and proper until such funds are invested by the housing  
66 development fund or the West Virginia economic  
67 development authority. The income from such short-  
68 term investments shall accrue to and be credited to the  
69 accounts from which such funds were drawn in propor-  
70 tion to the amount of funds so drawn.

71 (e) The funds invested in the state mortgage and  
72 industrial development pool shall be invested solely for  
73 the benefit of the accounts from which the funds are  
74 drawn in proportion to the amount so drawn. For  
75 purposes of crediting of investment returns to the  
76 proper account, the state board of investments is to  
77 consider the state mortgage and industrial development  
78 investment pool as it would any other long-term  
79 investment at a fixed rate of return.

80 (f) The housing development fund and the West  
81 Virginia economic development authority may release  
82 the funds from the state mortgage and industrial  
83 development investment pool to the control of the state  
84 board of investments if it determines that lower interest  
85 rates than those now prevailing require that such funds  
86 cannot be competitively invested in first mortgages on  
87 residential property or industrial development projects  
88 located in the state.

**§31-18B-4. West Virginia economic development author-  
ity to make available state mortgage and  
industrial development investment pool  
funds for investment in industrial develop-  
ment; amount of funds available; interest  
rate specified.**

1 (a) The West Virginia economic development author-

2 ity may use for any investments authorized by sections  
3 seven and seven-a, article fifteen, chapter thirty-one of  
4 this code, up to one half of the funds of the state  
5 mortgage and industrial development investment pool:  
6 *Provided*, That the economic development authority  
7 shall deposit with the treasurer of the state for the credit  
8 of the state mortgage and industrial development pool  
9 such notes, security interests or bonds issued by the  
10 economic development authority evidencing the in-  
11 debtedness of the authority to the pool.

12 (b) Such notes, security interests or bonds issued by  
13 the authority shall be secured by security equal to or  
14 better than one of the three highest rating grades by an  
15 agency which is nationally known in the field of rating  
16 corporate securities: *Provided*, That notes, security  
17 interests or bonds evidencing indebtedness of two million  
18 dollars or less may be secured by a letter of credit  
19 guarantee issued by a bank having an unsecured legal  
20 lending limit greater than one million dollars.

21 (c) The interest rate and the maturity dates of the  
22 notes, security interests or bonds held by the treasurer  
23 for the state mortgage and industrial development  
24 investment pool shall be determined by the economic  
25 development authority according to the provisions of  
26 section eleven, article fifteen, chapter thirty-one of this  
27 code: *Provided*, That such interest rate shall not be less  
28 than the prior four-week auction average yield for  
29 thirteen-week treasury bills and such rate shall be valid  
30 for a term of not more than three years: *Provided*,  
31 *however*, That the economic development authority may  
32 determine a variable rate of interest to be adjusted no  
33 less frequently than semiannually, and such variable  
34 interest rate shall not be less than the prior four-week  
35 auction average yield for thirteen-week treasury bills.

**§31-18B-5. Reversion to state board of investments of  
money not used for mortgages.**

1 Should the housing development fund or its agents fail  
2 to loan all or a portion of the funds made available  
3 pursuant to section two of this article within one year  
4 of the date those funds become a part of the state

5 mortgage and industrial development investment pool,  
6 then that portion of the funds not invested shall revert  
7 to the exclusive control of the state board of investments  
8 and shall no longer be required to be available to the  
9 state mortgage and industrial development investment  
10 pool.

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

*Bruce O. Williams*  
.....  
Chairman Senate Committee

*Lyle Sattler*  
.....  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Jedd C. Mellis*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Sam Taylor*  
.....  
President of the Senate

*Robert O. Anderson*  
.....  
Speaker of the House of Delegates

The within *approved* this the *1st*  
day of *April*, 1987.

*Richard S. French*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/26/87

Time 2:46 p.m.

RECEIVED

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OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE