WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

ENROLLED
Com Sub. for
HOUSE BILL No. 2823

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

Passed March 14, 1987

In Effect Ninety Days From Passage
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.

Any documentary material or data made or received by the authority for the purpose of furnishing assistance to a business, to the extent that such material or data consists of trade secrets or commercial or financial information regarding the operation of such business, shall not be considered public records and shall be exempt from disclosure pursuant to the provisions of chapter twenty-nine-b of this code. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the authority in executive session closed to the public, notwithstanding the provisions of article nine-a, chapter six of this code:

Provided, That the West Virginia economic development authority shall make publicly available the following information regarding executed loans which shall include: (1) name of debtor, (2) location(s) of the project, (3) amount of the West Virginia economic development authority loan, (4) the purpose of the loan, (5) the loan conditions of said executed loan, and (6) the fixed assets which serve as security for the loan.


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

The borrowing of money and the notes, bonds and security interests evidencing any such borrowing shall be authorized by resolution approved by the board, shall bear such date or dates, and shall mature at such time or times, in the case of any such bonds, as such resolution or resolutions may provide. The notes, bonds and security interests shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms or conditions of redemption as such resolution or resolutions may provide.

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

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

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

The board shall manage the property and business of the authority and prescribe, amend and repeal bylaws and rules and regulations governing the manner in which the business of the authority is conducted.
The governor shall provide staff services to the authority for administration of this article, including liaison between the authority and the industrial development agencies and related organizations and between the authority and other state agencies whose facilities and services may be useful to the authority in its work. The authority may reimburse any state spending unit for any special expense actually incurred in providing any service or the use of any facility to the authority.

The authority shall employ an executive director and any other personnel it determines necessary, and may appoint its own counsel and legal staff, and retain such temporary engineering, financial and other consultants or technicians as may be required for any special study 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 industrial development investment pool; investment of worker's compensation funds and other funds in such pool; schedule of moneys 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.

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

(b) Notwithstanding any of the restrictions of section nine, article six, chapter twelve, the state board of
investments shall make available from the workers' compensation funds and other such funds which it invests, moneys for the state mortgage and industrial development investment pool. Such moneys shall be drawn from workers' compensation funds and other funds except pension funds currently invested by the state board of investments and shall be made available for investment on or before the dates established in subsection (c) of this section: Provided, That should the workers' compensation fund fall below three hundred million dollars, then no further transfers provided in this section be granted until the fund again reaches four hundred million dollars.

(c) The state board of investments shall make available for investment in the state mortgage and industrial development investment pool the funds identified in subsections (a) and (b) of this section according to the following schedule:

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

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

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

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

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

(d) The state board of investment may, after committing these funds to the state mortgage and industrial development investment pool, at the discretion of the treasurer's office, invest the moneys of such pool in any short-term investments as may be deemed to be prudent and proper until such funds are invested by the housing development fund or the West Virginia economic development authority. The income from such short-term investments shall accrue to and be credited to the accounts from which such funds were drawn in proportion to the amount of funds so drawn.

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

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

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

(a) The West Virginia economic development author-
ity may use for any investments authorized by sections
seven and seven-a, article fifteen, chapter thirty-one of
this code, up to one half of the funds of the state
mortgage and industrial development investment pool:
Provided, That the economic development authority
shall deposit with the treasurer of the state for the credit
of the state mortgage and industrial development pool
such notes, security interests or bonds issued by the
economic development authority evidencing the in-
debtedness of the authority to the pool.

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

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

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

Should the housing development fund or its agents fail
to loan all or a portion of the funds made available
pursuant to section two of this article within one year
of the date those funds become a part of the state
mortgage and industrial development investment pool, then that portion of the funds not invested shall revert to the exclusive control of the state board of investments and shall no longer be required to be available to the state mortgage and industrial development investment pool.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams
Chairman Senate Committee

Kyle Luttig
Chairman House Committee

Originating in the House.
Takes effect ninety days from passage.

Jed C. Wells
Clerk of the Senate

Donald K. Vogt
Clerk of the House of Delegates

Robert C. Eghli
President of the Senate

K. J. Dullea
Speaker of the House of Delegates

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

Ricky L.SCOOG, Governor
PRESENTED TO THE
GOVERNOR

Date 3/26/69
Time 10:00 a.m.