

HB 2748

RECEIVED

96 MAR 21 PM 5: 01

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

HOUSE BILL No. 2748

(By Delegates Michael J Martin and
Mezzatesta)



Passed March 8, 1996

In Effect Ninety Days From Passage



ENROLLED

H. B. 2748

(BY DELEGATES MICHAEL, J. MARTIN AND MEZZATESTA)

[Passed March 8, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing premiums collected by the state board of risk and insurance management to be invested with the West Virginia state board of investments, which will allow the funds to accumulate the necessary interest to meet its payment obligation.

Be it enacted by the Legislature of West Virginia:

That section five, article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 12. STATE INSURANCE.

§29-12-5. Powers and duties of board.

- 1 (a) The board shall have general supervision and con-
- 2 trol over the insurance of all state property, activities and
- 3 responsibilities, including the acquisition and cancellation
- 4 thereof; determination of amount and kind of coverage,
- 5 including, but not limited to, deductible forms of insur-
- 6 ance coverage, inspections or examinations relating there-
- 7 to, reinsurance, and any and all matters, factors and con-
- 8 siderations entering into negotiations for advantageous
- 9 rates on and coverage of all such state property, activities
- 10 and responsibilities. Any policy of insurance purchased
- 11 or contracted for by the board shall provide that the insur-

12 er shall be barred and estopped from relying upon the
13 constitutional immunity of the state of West Virginia
14 against claims or suits: *Provided*, That nothing herein
15 shall bar the insurer of political subdivisions from relying
16 upon any statutory immunity granted such political subdivi-
17 sions against claims or suits. The board may enter into
18 any contracts necessary to the execution of the powers
19 granted to it by this article. It shall endeavor to secure the
20 maximum of protection against loss, damage or liability to
21 state property and on account of state activities and re-
22 sponsibilities by proper and adequate insurance coverage
23 through the introduction and employment of sound and
24 accepted methods of protection and principles of insur-
25 ance. It is empowered and directed to make a complete
26 survey of all presently owned and subsequently acquired
27 state property subject to insurance coverage by any form
28 of insurance, which survey shall include and reflect in-
29 spections, appraisals, exposures, fire hazards, construction,
30 and any other objectives or factors affecting or which
31 might affect the insurance protection and coverage re-
32 quired. It shall keep itself currently informed on new and
33 continuing state activities and responsibilities within the
34 insurance coverage herein contemplated. The board shall
35 work closely in cooperation with the state fire marshal's
36 office in applying the rules of that office insofar as the
37 appropriations and other factors peculiar to state property
38 will permit. The board is given power and authority to
39 make rules governing its functions and operations and the
40 procurement of state insurance, but shall not make or
41 promulgate any rules in contravention of or inconsistent
42 with the laws or rules governing the office of insurance
43 commissioner of West Virginia.

44 The board is hereby authorized and empowered to
45 negotiate and effect settlement of any and all insurance
46 claims arising on or incident to losses of and damages to
47 state properties, activities and responsibilities hereunder
48 and shall have authority to execute and deliver proper
49 releases of all such claims when settled. The board may
50 adopt rules and procedures for handling, negotiating and
51 settlement of all such claims. All such settlements and
52 releases shall be effected with the knowledge and consent

53 of the attorney general.

54 (b) If requested by a political subdivision or by a
55 charitable or public service organization, the board is
56 authorized to provide property and liability insurance to
57 the political subdivisions or such organizations to insure
58 their property, activities and responsibilities. Such board
59 is authorized to enter into any necessary contract of insur-
60 ance to further the intent of this subsection.

61 The property insurance provided by the board, pursu-
62 ant to this subsection, may also include insurance on prop-
63 erty leased to or loaned to the political subdivision or such
64 organization which is required to be insured under a writ-
65 ten agreement.

66 The cost of this insurance, as determined by the board,
67 shall be paid by the political subdivision or the organiza-
68 tion and may include administrative expenses. All funds
69 received by the board, (including, but not limited to, state
70 agency premiums, mine subsidence premiums, and politi-
71 cal subdivision premiums) shall be deposited with the West
72 Virginia state board of investments with the interest in-
73 come a proper credit to such property insurance trust fund
74 or liability insurance trust fund, as applicable.

75 Political subdivision as used in this subsection shall
76 have the same meaning as in section three, article twelve-a
77 of this chapter.

78 Charitable or public service organization as used in
79 this subsection means a bona fide, not for profit,
80 tax-exempt, benevolent, educational, philanthropic, hu-
81 mane, patriotic, civic, religious, eleemosynary, incorporat-
82 ed or unincorporated association or organization or a
83 rescue unit or other similar volunteer community service
84 organization or association, but does not include any non-
85 profit association or organization, whether incorporated or
86 not, which is organized primarily for the purposes of in-
87 fluencing legislation or supporting or promoting the cam-
88 paign of any candidate for public office.

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

Randy Schoonover
Chairman Senate Committee

Randy Seacrest
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell K. Casper
Clerk of the Senate

Brian M. Gray
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Robert Coburn
Speaker of the House of Delegates

The within is approved this the 21st
day of March, 1996.

Winston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date

3/19/96

Time

3:35 pm