

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998

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SECRETARY OF STATE

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Com. Sub. for House Bill No. 4444

(By Mr. Speaker, Mr. Kiss, and Delegate Ashley)
[By Request of the Executive]

Passed March 14, 1998

In Effect from Passage

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OFFICE OF THE CLERK
STATE OF WEST VIRGINIA
SPOKESMAN BUILDING

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4444

(BY MR. SPEAKER, MR. KISS, AND DELEGATE ASHLEY)

[By Request of the Executive]

[Passed March 14, 1998; in effect from passage.]

AN ACT to amend and reenact sections two, three and twelve, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section twelve-a; to amend and reenact sections fourteen, seventeen and eighteen, article one, chapter thirteen of said code; and to amend and reenact section two, article two of said chapter, all relating to the clarification and technical clean-up of language concerning the responsibilities of the state treasurer; authorizing investment accounts by the state treasurer; authorizing money needed for current operation purposes to be invested in short term investments not to exceed five days; authorizing the state treasurer to designate banks as depositories for interest earning deposits of the state and to apportion such interest earning deposits; authorizing the treasurer to invest up to one hundred twenty-five million dollars of the operating funds of the state to meet current operational needs; clarifying the meaning of operating funds; limiting investments by the state treasurer; and authorizing the treasurer to be bond payor and registrar.

Be it enacted by the Legislature of West Virginia:

That sections two, three and twelve, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section twelve-a; that sections fourteen, seventeen and eighteen, article one, chapter thirteen of said code be amended and reenacted; and that section two, article two of said chapter 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 state treasurer.

1 The state treasurer shall designate the state and
2 national banks in this state which shall serve as
3 depositories for all state funds placed in demand deposits.
4 Any such state or national bank shall, upon request to the
5 treasurer, be designated as a state depository for such
6 deposits, if such bank meets the requirements set forth in
7 this chapter.

8 Demand deposit accounts shall consist of receipt and
9 disbursement. Receipt accounts shall be those accounts in
10 which are deposited moneys belonging to or due the state
11 of West Virginia or any official, department, board,
12 commission or agency thereof.

13 Disbursement accounts shall be those accounts from
14 which are paid moneys due from the state of West Virginia
15 or any official, department, board, commission, political
16 subdivision or agency thereof to any political subdivision,
17 person, firm or corporation, except moneys paid from
18 investment accounts.

19 Investment accounts shall be those accounts
20 established by the West Virginia investment management
21 board or the state treasurer for the buying and selling of
22 securities for investment for the state of West Virginia.

23 The state treasurer shall promulgate rules, in

24 accordance with the provisions of article three, chapter
25 twenty-nine-a of this code, concerning depositories for
26 receipt accounts prescribing the selection criteria,
27 procedures, compensation and such other contractual
28 terms as it considers to be in the best interests of the state
29 giving due consideration to: (1) The activity of the
30 various accounts maintained therein; (2) the reasonable
31 value of the banking services rendered or to be rendered
32 the state by such depositories; and (3) the value and
33 importance of such deposits to the economy of the
34 communities and the various areas of the state affected
35 thereby.

36 The state treasurer shall select depositories for
37 disbursement accounts through competitive bidding by
38 eligible banks in this state. The treasurer shall promulgate
39 rules in accordance with the provisions of article three,
40 chapter twenty-nine-a of this code, prescribing the
41 procedures and criteria for the bidding and selection. The
42 treasurer shall, in the invitations for bids, specify the
43 approximate amounts of deposits, the duration of
44 contracts to be awarded and such other contractual terms
45 as it considers to be in the best interests of the state,
46 consistent with obtaining the most efficient service at the
47 lowest cost.

48 The amount of money needed for current operation
49 purposes of the state government, as determined by the
50 state treasurer, shall be maintained at all times in the state
51 treasury, in cash, in short term investments not to exceed
52 five days, or in disbursement accounts with banks
53 designated as depositories in accordance with the
54 provisions of this section. No state officer or employee
55 shall make or cause to be made any deposits of state funds
56 in banks not so designated.

**§12-1-3. Depositories for interest earning deposits; quali-
fications.**

1 Any state or national bank or any state or federal
2 savings and loan association in this state shall, upon
3 request made to the state treasurer, be designated as an
4 eligible depository for interest earning deposits of state
5 funds if such bank or state or federal savings and loan

6 association meets the requirements set forth in this
7 chapter. For purposes of this article, the term "interest
8 earning deposits" includes certificates of deposit. The
9 state treasurer shall make and apportion such interest
10 earning deposits and shall prescribe the interest rates,
11 terms and conditions of such deposits, all in accordance
12 with the provisions of article six of this chapter: *Provided,*
13 That state or federal savings and loan associations insured
14 by an agency of the federal government shall be eligible
15 for such deposits not in excess of one hundred thousand
16 dollars: *Provided, however,* That notwithstanding any
17 provision of this article to the contrary, no such interest
18 earning deposits may be deposited in any depository
19 which has been in existence over a period of five years
20 which does not have a loan to deposit ratio of fifty percent
21 or more and which does not have farm, single or
22 multifamily residential unit loans in an amount greater
23 than twenty-five percent of the amount of loans
24 representing a loan-to-deposit ratio of fifty percent. For
25 the purpose of making the foregoing calculation, the
26 balances due the depository on the following loans shall
27 be given effect: (1) Qualifying residential loans held by
28 the depository; (2) qualifying loans made in participation
29 with other financial institutions; (3) qualifying loans made
30 in participation with agencies of the state, federal or local
31 governments; and (4) qualifying loans originated and
32 serviced by the depository but owned by an out-of-state
33 investor. The computation of the criteria for eligibility
34 specified above shall be based on the average daily
35 balances of deposits, the average daily balances of total
36 loans and qualifying residential loans for the period being
37 reported.

**§12-1-12. When treasurer shall make funds available to the
investment management board; depositories
outside the state.**

1 When the funds in the treasury exceed the amount
2 needed for current operational purposes, as determined by
3 the treasurer, the treasurer shall make all of such excess
4 available for investment by the investment management
5 board which shall invest the excess for the benefit of the
6 general revenue fund: *Provided,* That the state treasurer,

7 after reviewing the cash flow needs of the state, may
8 withhold and invest amounts not to exceed one hundred
9 twenty-five million dollars of the operating funds needed
10 to meet current operational purposes. Investments made
11 by the state treasurer under this section shall be made in
12 short term investments not to exceed five days. Operating
13 funds means the consolidated fund established in section
14 eight, article six of this chapter, including all cash and
15 investments of the fund.

16 Whenever the funds in the treasury exceed the amount
17 for which depositories within the state have qualified, or
18 the depositories within the state which have qualified are
19 unwilling to receive larger deposits the treasurer may
20 designate depositories outside the state, disbursement
21 accounts being bid for in the same manner as required by
22 depositories within the state, and when such depositories
23 outside the state have qualified by giving the bond
24 prescribed in section four of this article, the state treasurer
25 shall deposit funds therein in like manner as funds are
26 deposited in depositories within the state under this article.

27 The state treasurer may transfer funds to banks outside
28 the state to meet obligations to paying agents outside the
29 state and any such transfer must meet the same bond
30 requirements as set forth in this article.

§12-1-12a. Investment of operating funds for cash flow needs.

1 (a) The Legislature hereby finds and declares that the
2 cash flow needs of the state require short term and liquid
3 investments, and that up to one hundred twenty-five
4 million dollars of the operating funds of the state should
5 be sufficient to meet cash flow needs. The Legislature
6 further finds that the state treasurer may withhold from
7 transfer to the investment management board up to one
8 hundred twenty-five million dollars of the operating funds
9 of the state and invest those funds in short term and liquid
10 investments.

11 (b) The state treasurer may exercise any and all
12 powers reasonably necessary or appropriate to carry out
13 and effectuate the purposes of this section.

14 (c) Investments shall be made in accordance with the
15 provisions of the "Uniform Prudent Investor Act" codified
16 as article six-c, chapter forty-four of this code.

17 (d) The state treasurer is authorized to invest the funds
18 in repurchase agreements fully collateralized by
19 obligations of the United States government or its agencies
20 or instrumentalities.

21 (e) The state treasurer shall prepare monthly a report
22 of the investments he or she administers. A copy of each
23 report shall be furnished to the president of the Senate,
24 speaker of the House, legislative auditor, council of
25 finance and administration, and upon request to any
26 legislative committee, banking institution, state or federal
27 savings and loan association in this state, and any member
28 of the news media. The report shall also be kept available
29 for inspection by the public.

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.

§13-1-14. Resolution authorizing issuance and fixing terms of bonds.

1 If three fifths of all the votes cast for and against the
2 proposition to incur debt and issue negotiable bonds shall
3 be in favor of the same, the governing body of the
4 political division shall, by resolution, authorize the
5 issuance of such bonds in an amount not exceeding the
6 amount stated in the proposition; fix the date thereof; set
7 forth the denominations in which they shall be issued,
8 which denominations shall be one hundred dollars or
9 multiples thereof; determine the rate or rates of interest
10 which the bonds shall bear, which rate or rates of interest
11 shall be within the maximum rate stated in the proposition
12 submitted to vote and payable semiannually; prescribe the
13 medium with which the bonds shall be payable; require
14 that the bonds shall be made payable at the office of the
15 state treasurer and at such other place or places as the
16 body issuing the same may designate; provide for a
17 sufficient levy to pay the annual interest on the bonds and
18 the principal at maturity; fix the times within the

19 maximum period, as contained in the proposition
 20 submitted to vote, when the bonds shall become payable,
 21 which shall not exceed thirty-four years from the date
 22 thereof; determine whether all or a portion of the bonds
 23 shall be subject to redemption prior to the maturity
 24 thereof and, if so, the terms of the redemption; and
 25 prescribe a form for executing the bonds authorized.

§13-1-17. Bonds may be registered; coupon bonds may be registered as to principal.

1 The bonds issued hereunder may be registered or
 2 coupon bonds. Coupon bonds may be registered as to the
 3 principal in the owner's name by the state treasurer on
 4 books which shall be kept at its office for the purpose and
 5 the registration shall also be noted on the bonds, after
 6 which no transfer shall be valid unless made by the state
 7 treasurer on the books of registration and similarly noted
 8 on the bonds. Bonds registered as to principal may be
 9 discharged from registration by being transferred to
 10 bearer, after which they shall be transferable by delivery;
 11 but may again, and from time to time, be registered as to
 12 the principal amount as before. The registration of
 13 coupon bonds as to the principal sum shall not affect the
 14 negotiability of the interest coupons, but title to the same
 15 shall pass by delivery.

§13-1-18. Registration of coupon bonds as to interest; exchange of registered bond for coupon bond.

1 Coupon bonds may also be registered as to the interest
 2 by the holder surrendering the bonds with the unpaid
 3 coupons attached, which bonds and coupons shall be
 4 canceled by the state treasurer. New bonds of the same
 5 date and tenor and for the same amounts as the bonds
 6 surrendered, or, at the option of the holder, a single bond
 7 for the aggregate amount of the bonds surrendered, but
 8 without interest coupons attached, shall be issued in the
 9 place of the coupon bonds and registered in the manner
 10 required in the preceding section. A registered bond may
 11 at any time be surrendered and be exchanged by the
 12 holder for a coupon bond by the holder delivering the
 13 registered bond to the state treasurer who shall cancel the
 14 same and who shall cause a new bond of the same date

15 and tenor and for the same amount to be issued, and with
16 interest coupons for the interest thereafter to accrue
17 thereon attached, and deliver the same to the holder of the
18 surrendered bond. The governing body of the county,
19 municipal corporation or school district which issued the
20 original bond shall issue and execute the new bond
21 required by this section and shall pass the resolutions and
22 ordinances necessary to authorize the same. The expense
23 of such registration shall in all cases be paid by the holder
24 of the bonds.

ARTICLE 2. REFUNDING BONDS.

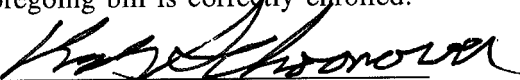
§13-2-2. Terms of refunding bonds; time, place and amount of payments.

1 Upon determining to issue such refunding bonds, the
2 governing body of such political division shall, by
3 resolution, authorize the issuance of such bonds in an
4 amount not exceeding the principal amount permitted by
5 section one of this article, fix the date thereof, the rate or
6 rates of interest which such bonds shall bear, payable
7 semiannually, and require that the bonds shall bear,
8 payable at the office of the state treasurer and at such
9 other place or places as the body issuing the same may
10 designate. Such resolution shall also provide that such
11 bonds shall mature serially in annual installments
12 beginning not more than three years after the date thereof,
13 and the last of such annual installments shall mature in not
14 exceeding thirty-four years from the date of such bonds.
15 The amount payable in each year on the refunding bonds,
16 together with any unrefunded or unissued bonds of the
17 prior issue, may be so fixed that, when the amount of
18 interest is added to the principal amount to be paid during
19 the respective years, the total amount payable in each year
20 shall be as nearly equal as practicable; or such bonds may
21 be made payable in annual installments as nearly equal in
22 principal as may be practicable.

23 All or a portion of the refunding bonds may be
24 subject to redemption prior to the maturity thereof, at the
25 option of the body issuing the same, at such times and
26 prices and on such terms as shall be designated in the
27 resolution required by this section. The body issuing the

28 refunding bonds may not levy taxes in connection with
29 the redemption of any refunding bonds in excess of the
30 taxes that would have been levied for the payment of
31 principal of and interest on such refunding bonds in such
32 year.

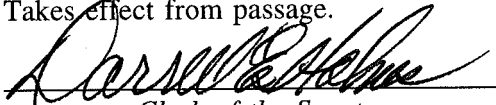
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

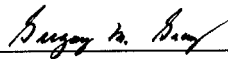

Chairman Senate Committee


Chairman House Committee


Originating in the House.

Takes effect from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 7th
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 7/6/98

Time 11:52 am