WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

ENROLLED

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
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4444

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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.

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

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

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

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

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

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

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

§12-1-3. Depositories for interest earning deposits; qualifications.

Any state or national bank or any state or federal savings and loan association in this state shall, upon request made to the state treasurer, be designated as an eligible depository for interest earning deposits of state funds if such bank or state or federal savings and loan
association meets the requirements set forth in this chapter. For purposes of this article, the term "interest earning deposits" includes certificates of deposit. The state treasurer shall make and apportion such interest earning deposits and shall prescribe the interest rates, terms and conditions of such deposits, all in accordance with the provisions of article six of this chapter: *Provided*,

That state or federal savings and loan associations insured by an agency of the federal government shall be eligible for such deposits not in excess of one hundred thousand dollars; *Provided, however*, That notwithstanding any provision of this article to the contrary, no such interest earning deposits may be deposited in any depository which has been in existence over a period of five years which does not have a loan to deposit ratio of fifty percent or more and which does not have farm, single or multifamily residential unit loans in an amount greater than twenty-five percent of the amount of loans representing a loan-to-deposit ratio of fifty percent. For the purpose of making the foregoing calculation, the balances due the depository on the following loans shall be given effect: (1) Qualifying residential loans held by the depository; (2) qualifying loans made in participation with other financial institutions; (3) qualifying loans made in participation with agencies of the state, federal or local governments; and (4) qualifying loans originated and serviced by the depository but owned by an out-of-state investor. The computation of the criteria for eligibility specified above shall be based on the average daily balances of deposits, the average daily balances of total loans and qualifying residential loans for the period being reported.

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

When the funds in the treasury exceed the amount needed for current operational purposes, as determined by the treasurer, the treasurer shall make all of such excess available for investment by the investment management board which shall invest the excess for the benefit of the general revenue fund: *Provided*, That the state treasurer,
after reviewing the cash flow needs of the state, may
withhold and invest amounts not to exceed one hundred
twenty-five million dollars of the operating funds needed
to meet current operational purposes. Investments made
by the state treasurer under this section shall be made in
short term investments not to exceed five days. Operating
funds mean the consolidated fund established in section
eight, article six of this chapter, including all cash and
investments of the fund.

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

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

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

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

(b) The state treasurer may exercise any and all
powers reasonably necessary or appropriate to carry out
and effectuate the purposes of this section.
(c) Investments shall be made in accordance with the provisions of the "Uniform Prudent Investor Act" codified as article six-c, chapter forty-four of this code.

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

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

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.


If three fifths of all the votes cast for and against the proposition to incur debt and issue negotiable bonds shall be in favor of the same, the governing body of the political division shall, by resolution, authorize the issuance of such bonds in an amount not exceeding the amount stated in the proposition; fix the date thereof; set forth the denominations in which they shall be issued, which denominations shall be one hundred dollars or multiples thereof; determine the rate or rates of interest which the bonds shall bear, which rate or rates of interest shall be within the maximum rate stated in the proposition submitted to vote and payable semiannually; prescribe the medium with which the bonds shall be payable; require that the bonds shall be made payable at the office of the state treasurer and at such other place or places as the body issuing the same may designate; provide for a sufficient levy to pay the annual interest on the bonds and the principal at maturity; fix the times within the
The bonds issued hereunder may be registered or coupon bonds. Coupon bonds may be registered as to the principal in the owner's name by the state treasurer on books which shall be kept at its office for the purpose and the registration shall also be noted on the bonds, after which no transfer shall be valid unless made by the state treasurer on the books of registration and similarly noted on the bonds. Bonds registered as to principal may be discharged from registration by being transferred to bearer, after which they shall be transferable by delivery; but may again, and from time to time, be registered as to the principal amount as before. The registration of coupon bonds as to the principal sum shall not affect the negotiability of the interest coupons, but title to the same shall pass by delivery.

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

Coupon bonds may also be registered as to the interest by the holder surrendering the bonds with the unpaid coupons attached, which bonds and coupons shall be canceled by the state treasurer. New bonds of the same date and tenor and for the same amounts as the bonds surrendered, or, at the option of the holder, a single bond for the aggregate amount of the bonds surrendered, but without interest coupons attached, shall be issued in the place of the coupon bonds and registered in the manner required in the preceding section. A registered bond may at any time be surrendered and be exchanged by the holder for a coupon bond by the holder delivering the registered bond to the state treasurer who shall cancel the same and who shall cause a new bond of the same date
and tenor and for the same amount to be issued, and with
interest coupons for the interest thereafter to accrue
thereon attached, and deliver the same to the holder of the
surrendered bond. The governing body of the county,
municipal corporation or school district which issued the
original bond shall issue and execute the new bond
required by this section and shall pass the resolutions and
ordinances necessary to authorize the same. The expense
of such registration shall in all cases be paid by the holder
of the bonds.

ARTICLE 2. REFUNDING BONDS.

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

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

All or a portion of the refunding bonds may be
subject to redemption prior to the maturity thereof, at the
option of the body issuing the same, at such times and
prices and on such terms as shall be designated in the
resolution required by this section. The body issuing the
refunding bonds may not levy taxes in connection with 
the redemption of any refunding bonds in excess of the 
taxes that would have been levied for the payment of 
principal of and interest on such refunding bonds in such 
year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

[Signature]

Chairman House Committee

[Signature]

Originating in the House.

Takes effect from passage.

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

President of the Senate

[Signature]

Speaker of the House of Delegates

[Signature]

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

Governor

[Signature]