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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

Committee Substitute for

SENATE BILL NO. 404

(By Senator McCabe, et al **)**

PASSED April 11, 2001

In Effect 90 days from **Passage**

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 404

(SENATORS MCCABE, ANDERSON AND UNGER, *original sponsors*)

[Passed April 11, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact sections four, five and fourteen, article seven, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the jobs investment trust fund and board; changing board composition; defining participation in board meetings; and exempting new millennium fund from certain requirements.

Be it enacted by the Legislature of West Virginia:

That sections four, five and fourteen, article seven, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. JOBS INVESTMENT TRUST FUND.

§12-7-4. Jobs investment trust board; composition; appointment, term of private members; chairman; quorum.

1 (a) The jobs investment trust board is continued. The
2 board is a public body corporate and established to
3 improve and otherwise promote economic development in
4 this state.

5 (b) The board consists of thirteen members, five of whom
6 serve by virtue of their respective positions. These five are
7 the president of West Virginia university or his or her
8 designee; the president of Marshall university or his or her
9 designee; the chancellor of the higher education policy
10 commission or his or her designee; the executive director
11 of the West Virginia housing development fund; and the
12 executive director of the West Virginia development office.
13 One member shall be appointed by the governor from a list
14 of two names submitted by the board of directors of the
15 housing development fund. One member shall be ap-
16 pointed by the governor from a list of two names submit-
17 ted by the commissioner of the division of tourism. The
18 other six members shall be appointed from the general
19 public by the governor. Of the members of the general
20 public appointed by the governor, one shall be an attorney
21 with experience in finance and investment matters, one
22 shall be a certified public accountant, one shall be a
23 representative of labor, one shall be experienced or
24 involved in innovative business development, two shall be
25 present or past executive officers of companies listed on a
26 major stock exchange or large privately held companies:
27 *Provided*, That all appointments made pursuant to the
28 provisions of this article shall be by and with the advice
29 and consent of the Senate.

30 (c) A vacancy on the board shall be filled by appoint-
31 ment by the governor for the unexpired term in the same
32 manner as the original appointment. Any person ap-
33 pointed to fill a vacancy serves only for the unexpired
34 term.

35 (d) The governor may remove any appointed member in
36 case of incompetency, neglect of duty, moral turpitude or
37 malfeasance in office and the governor may declare the
38 office vacant and fill the vacancy as provided in other
39 cases of vacancy.

40 (e) The chairman of the board shall be elected by the
41 board from among the members of the board.

42 (f) Seven members of the board is a quorum. No action
43 may be taken by the board except upon the affirmative
44 vote of at least a majority of those members present or
45 participating by such other means as described in subsec-
46 tion (g) of this section, but in no event fewer than six of the
47 members serving on the board.

48 (g) Members of the board may participate in a meeting
49 of the board by means of conference telephone or similar
50 communication equipment by means of which all persons
51 participating in the meeting can hear each other and
52 participation in a board meeting pursuant to this subsec-
53 tion shall constitute presence in person at such meeting.

54 (h) The members of the board, including the chairman,
55 may receive no compensation for their services as members
56 of the board but are entitled to their reasonable and
57 necessary expenses actually incurred in discharging their
58 duties under this article.

59 (i) The board shall meet on a quarterly basis or more
60 often if necessary.

61 (j) The terms of the board members appointed by the
62 governor first taking office on or after the one thousand
63 nine hundred ninety-two effective date of the jobs invest-
64 ment trust act expired as designated by the governor at the
65 time of the nomination, two at the end of the first year,
66 two at the end of the second year, two at the end of the
67 third year and two at the end of the fourth year. These
68 original appointments were for, and each subsequent
69 appointment was and shall be for, a full four-year term.

70 Any member whose term has expired serves until his or her
71 successor has been duly appointed and qualified. Any
72 member is eligible for reappointment.

73 (k) Additionally, one member of the West Virginia House
74 of Delegates and one member of the West Virginia Senate
75 shall serve as advisory members of the jobs investment
76 trust board and, as advisory members, shall be ex officio,
77 nonvoting advisory members. The governor shall appoint
78 the two legislative ex officio advisory members who shall
79 serve for four years or such shorter time as he or she
80 continues to be a West Virginia legislator.

**§12-7-5. Management and control of jobs investment trust
vested in board; officers; liability; authority of
executive director to act on behalf of board;
relationship to higher education institutions.**

1 (a) It is the duty of the board to manage and control the
2 jobs investment trust. In order to carry out the day-to-day
3 management and control of the trust and effectuate the
4 purposes of this article, the board shall appoint an execu-
5 tive director who is or has been a senior executive of a
6 major financial institution, brokerage firm, investment
7 firm or similar institution, with extensive experience in
8 capital market development. The board shall fix the
9 executive director's duties. The board shall fix the com-
10 pensation of the executive director and the compensation
11 shall, at least in part, be incentive based. The executive
12 director serves at the will and pleasure of the board.

13 (b) The board shall elect a secretary annually, who need
14 not be a member of the board, to keep a record of the
15 proceedings of the board.

16 (c) The members and officers of the board are not liable
17 personally, either jointly or severally, for any debt or
18 obligation created by the board.

19 (d) The acts of the board are solely the acts of its corpo-
20 ration and are not those of an agent of the state. No debt

21 or obligation of the board is a debt or obligation of the
22 state.

23 (e) Upon the affirmative vote of at least a majority of
24 those members in attendance or participating by such
25 other means as described in subsection (g), section four of
26 this article in a meeting of the board, but in no event fewer
27 than six of the members serving on the board, the board
28 may approve any action to be taken and authorize the
29 executive director for and on behalf of the board to
30 execute and deliver all instruments, agreements or other
31 documents that are required or are reasonably necessary
32 to effectuate the decisions or acts of the board.

33 (f) The West Virginia housing development fund shall
34 provide office space and staff support services for the
35 director and the board shall act as fiscal agent for the
36 board and, as such, shall provide accounting services for
37 the board, invest all funds as directed by the board, service
38 all investment activities of the board and shall make the
39 disbursements of all funds as directed by the board, for
40 which the West Virginia housing development fund shall
41 be reasonably compensated as determined by the board.

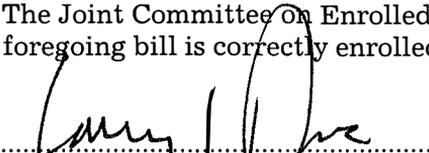
42 (g) The board and the executive director shall involve
43 students and faculty members of state institutions of
44 higher education in the board's activities in order to
45 enhance the opportunities at the institutions for learning
46 and for participation in the board's investment activities
47 and in the economic development of the state, whether in
48 research, financial analysis, management participation or
49 in such other ways as the board and the executive director
50 may, in their discretion, find appropriate.

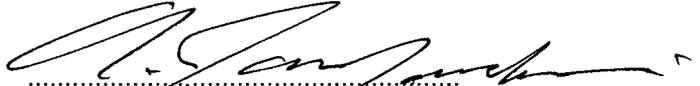
§12-7-14. Exemption from certain requirements; audit.

1 In order to provide excellent investment opportunities
2 and to effectively implement the new millennium fund, the
3 investment activity and the new millennium fund activity
4 provided by this article shall be exempt from the bidding

5 and public sale requirements, from the approval of con-
6 tractual agreements by the department of finance and
7 administration or the attorney general and from the
8 requirements of chapter five-a of this code. The transac-
9 tions provided by this article shall be subject to an annual
10 audit by an independent firm of certified public accoun-
11 tants.

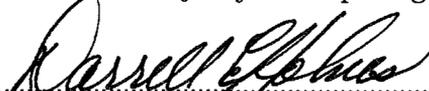
The Joint Committee On Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee


.....
Chairman House Committee

Originated in the Senate.

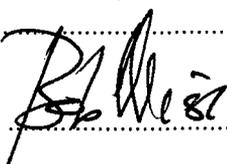
In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 25th
Day of April, 2001.

.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 11:10 am