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
ENROLLED
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.

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

(b) The board consists of thirteen members, five of whom serve by virtue of their respective positions. These five are the president of West Virginia university or his or her designee; the president of Marshall university or his or her designee; the chancellor of the higher education policy commission or his or her designee; the executive director of the West Virginia housing development fund; and the executive director of the West Virginia development office. One member shall be appointed by the governor from a list of two names submitted by the board of directors of the housing development fund. One member shall be appointed by the governor from a list of two names submitted by the commissioner of the division of tourism. The other six members shall be appointed from the general public by the governor. Of the members of the general public appointed by the governor, one shall be an attorney with experience in finance and investment matters, one shall be a certified public accountant, one shall be a representative of labor, one shall be experienced or involved in innovative business development, two shall be present or past executive officers of companies listed on a major stock exchange or large privately held companies: Provided, That all appointments made pursuant to the provisions of this article shall be by and with the advice and consent of the Senate.

(c) A vacancy on the board shall be filled by appointment by the governor for the unexpired term in the same manner as the original appointment. Any person appointed to fill a vacancy serves only for the unexpired term.
(d) The governor may remove any appointed member in case of incompetency, neglect of duty, moral turpitude or malfeasance in office and the governor may declare the office vacant and fill the vacancy as provided in other cases of vacancy.

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

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

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

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

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

(j) The terms of the board members appointed by the governor first taking office on or after the one thousand nine hundred ninety-two effective date of the jobs investment trust act expired as designated by the governor at the time of the nomination, two at the end of the first year, two at the end of the second year, two at the end of the third year and two at the end of the fourth year. These original appointments were for, and each subsequent appointment was and shall be for, a full four-year term.
Any member whose term has expired serves until his or her successor has been duly appointed and qualified. Any member is eligible for reappointment.

(k) Additionally, one member of the West Virginia House of Delegates and one member of the West Virginia Senate shall serve as advisory members of the jobs investment trust board and, as advisory members, shall be ex officio, nonvoting advisory members. The governor shall appoint the two legislative ex officio advisory members who shall serve for four years or such shorter time as he or she 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.

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

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

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

(d) The acts of the board are solely the acts of its corporation and are not those of an agent of the state. No debt
or obligation of the board is a debt or obligation of the state.

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

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

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

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

In order to provide excellent investment opportunities and to effectively implement the new millennium fund, the investment activity and the new millennium fund activity provided by this article shall be exempt from the bidding
and public sale requirements, from the approval of contractual agreements by the department of finance and administration or the attorney general and from the requirements of chapter five-a of this code. The transactions provided by this article shall be subject to an annual audit by an independent firm of certified public accountants.
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.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the


Governor