WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2006

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4032

(By Delegates Stalnaker, Browning, Williams, Frederick, Hall, Duke and Manchin)

Passed March 11, 2006

In Effect Ninety Days from Passage
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COMMITTEE SUBSTITUTE
FOR
H. B. 4032

(BY DELEGATES STALNAKER, BROWNING, WILLIAMS, FREDERICK, HALL, DUKE AND MANCHIN)

[Passed March 11, 2006: in effect ninety days from passage.]

AN ACT to amend and reenact §5-10D-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to recover from a participating employer that fails to pay contributions due in a timely manner, amounts not to exceed interest or other earnings lost as a result of the untimely payment, or a reasonable minimum fee, whichever is greater, as provided by legislative rule; requiring that any amounts recovered shall be administered in the same manner in which the contributions are required to be administered; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §5-10D-1 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.
§5-10D-1. Consolidated Public Retirement Board continued; members; vacancies; investment of plan funds.

(a) The Consolidated Public Retirement Board is continued to administer all public retirement plans in this state. It shall administer the Public Employees Retirement System established in article ten of this chapter; the Teachers Retirement System established in article seven-a, chapter eighteen of this code; the Teachers Defined Contribution Retirement System created by article seven-b of said chapter; the West Virginia State Police Death, Disability and Retirement Fund created by article two, chapter fifteen of this code; the West Virginia State Police Retirement System created by article two-a of said chapter; the Deputy Sheriff Death, Disability and Retirement Fund created by article fourteen-d, chapter seven of this code; and the Judges' Retirement System created under article nine, chapter fifty-one of this code.

(b) The membership of the Consolidated Public Retirement Board consists of:

(1) The Governor or his or her designee;
(2) The State Treasurer or his or her designee;
(3) The State Auditor or his or her designee;
(4) The Secretary of the Department of Administration or his or her designee;
(5) Four residents of the state, who are not members, retirants or beneficiaries of any of the public retirement systems, to be appointed by the Governor, with the advice and consent of the Senate; and
(6) A member, annuitant or retirant of the Public Employees Retirement System who is or was a state employee;
member, annuitant or retirant of the Public Employees Retirement System who is not or was not a state employee; a member, annuitant or retirant of the Teachers Retirement System; a member, annuitant or retirant of the West Virginia State Police Death, Disability and Retirement Fund; a member, annuitant or retirant of the Deputy Sheriff Death, Disability and Retirement Fund; and a member, annuitant or retirant of the Teachers Defined Contribution Retirement System all to be appointed by the Governor, with the advice and consent of the Senate.

(c) The appointed members of the board serve five-year terms. A member appointed pursuant to subdivision (6), subsection (b) of this section ceases to be a member of the board if he or she ceases to be a member of the represented system. If a vacancy occurs in the appointed membership, the Governor, within sixty days, shall fill the vacancy by appointment for the unexpired term. No more than five appointees may be of the same political party.

(d) The Consolidated Public Retirement Board has all the powers, duties, responsibilities and liabilities of the Public Employees Retirement System established pursuant to article ten of this chapter; the Teachers Retirement System established pursuant to article seven-a, chapter eighteen of this code; the Teachers Defined Contribution System established pursuant to article seven-b of said chapter; the West Virginia State Police Death, Disability and Retirement Fund created pursuant to article two, chapter fifteen of this code; the West Virginia State Police Retirement System created by article two-a of said chapter; the Deputy Sheriff Death, Disability and Retirement Fund created pursuant to article fourteen-d, chapter seven of this code; and the Judges' Retirement System created pursuant to article nine, chapter fifty-one of this code and their appropriate governing boards.
(e) The Consolidated Public Retirement Board may propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code, necessary to effectuate its powers, duties and responsibilities: Provided, That the board may adopt any or all of the rules, previously promulgated, of a retirement system which it administers.

(f)(1) The Consolidated Public Retirement Board shall continue to transfer all funds received for the benefit of the retirement systems within the consolidated pension plan as defined in section three-c, article six-b, chapter forty-four of this code, including, but not limited to, all employer and employee contributions, to the West Virginia Investment Management Board: Provided, That the employer and employee contributions of the Teachers Defined Contribution System, established in section three, article seven-b, chapter eighteen of this code, and voluntary deferred compensation funds invested by the West Virginia Consolidated Public Retirement Board pursuant to section five, article ten-b of this chapter may not be transferred to the West Virginia Investment Management Board.

(2) The board may recover from a participating employer that fails to pay any amount due a retirement system in a timely manner the contribution due and an additional amount not to exceed interest or other earnings lost as a result of the untimely payment, or a reasonable minimum fee, whichever is greater, as provided by legislative rule promulgated pursuant to the provisions of article three, chapter twenty-nine-a of this code. Any amounts recovered shall be administered in the same manner in which the amount due is required to be administered.

(g) Notwithstanding any provision of this code or any legislative rule to the contrary, all assets of the public retirement plans set forth in subsection (a) of this section shall be held in trust. The Consolidated Public Retirement Board is a
trustee for all public retirement plans, except with regard to the
investment of funds: *Provided, That the Consolidated Public
Retirement Board is a trustee with regard to the investments of
the Teachers' Defined Contribution System, the voluntary
defered compensation funds invested pursuant to section five,
article ten-b of this chapter and any other assets of the public
retirement plans administered by the Consolidated Public
Retirement Board as set forth in subsection (a) of this section
for which no trustee has been expressly designated in this code.

(h) The board may employ the West Virginia Investment
Management Board to provide investment management
consulting services for the investment of funds in the Teachers'
Defined Contribution System.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 31st day of March, 2006.

Governor
PRESENTED TO THE GOVERNOR

MAR 29 2006

Time 10:30am