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HB 4032

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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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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.

1 (a) The Consolidated Public Retirement Board is continued
2 to administer all public retirement plans in this state. It shall
3 administer the Public Employees Retirement System estab-
4 lished in article ten of this chapter; the Teachers Retirement
5 System established in article seven-a, chapter eighteen of this
6 code; the Teachers Defined Contribution Retirement System
7 created by article seven-b of said chapter; the West Virginia
8 State Police Death, Disability and Retirement Fund created by
9 article two, chapter fifteen of this code; the West Virginia State
10 Police Retirement System created by article two-a of said
11 chapter; the Deputy Sheriff Death, Disability and Retirement
12 Fund created by article fourteen-d, chapter seven of this code;
13 and the Judges' Retirement System created under article nine,
14 chapter fifty-one of this code.

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

17 (1) The Governor or his or her designee;

18 (2) The State Treasurer or his or her designee;

19 (3) The State Auditor or his or her designee;

20 (4) The Secretary of the Department of Administration or
21 his or her designee;

22 (5) Four residents of the state, who are not members,
23 retirants or beneficiaries of any of the public retirement
24 systems, to be appointed by the Governor, with the advice and
25 consent of the Senate; and

26 (6) A member, annuitant or retirant of the Public Employ-
27 ees Retirement System who is or was a state employee; a

28 member, annuitant or retirant of the Public Employees Retire-
29 ment System who is not or was not a state employee; a member,
30 annuitant or retirant of the Teachers Retirement System; a
31 member, annuitant or retirant of the West Virginia State Police
32 Death, Disability and Retirement Fund; a member, annuitant or
33 retirant of the Deputy Sheriff Death, Disability and Retirement
34 Fund; and a member, annuitant or retirant of the Teachers
35 Defined Contribution Retirement System all to be appointed by
36 the Governor, with the advice and consent of the Senate.

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

45 (d) The Consolidated Public Retirement Board has all the
46 powers, duties, responsibilities and liabilities of the Public
47 Employees Retirement System established pursuant to article
48 ten of this chapter; the Teachers Retirement System established
49 pursuant to article seven-a, chapter eighteen of this code; the
50 Teachers Defined Contribution System established pursuant to
51 article seven-b of said chapter; the West Virginia State Police
52 Death, Disability and Retirement Fund created pursuant to
53 article two, chapter fifteen of this code; the West Virginia State
54 Police Retirement System created by article two-a of said
55 chapter; the Deputy Sheriff Death, Disability and Retirement
56 Fund created pursuant to article fourteen-d, chapter seven of
57 this code; and the Judges' Retirement System created pursuant
58 to article nine, chapter fifty-one of this code and their appropri-
59 ate governing boards.

60 (e) The Consolidated Public Retirement Board may propose
61 rules for legislative approval, in accordance with article three,
62 chapter twenty-nine-a of this code, necessary to effectuate its
63 powers, duties and responsibilities: *Provided*, That the board
64 may adopt any or all of the rules, previously promulgated, of a
65 retirement system which it administers.

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

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

89 (g) Notwithstanding any provision of this code or any
90 legislative rule to the contrary, all assets of the public retire-
91 ment plans set forth in subsection (a) of this section shall be
92 held in trust. The Consolidated Public Retirement Board is a

93 trustee for all public retirement plans, except with regard to the
94 investment of funds: *Provided*, That the Consolidated Public
95 Retirement Board is a trustee with regard to the investments of
96 the Teachers' Defined Contribution System, the voluntary
97 deferred compensation funds invested pursuant to section five,
98 article ten-b of this chapter and any other assets of the public
99 retirement plans administered by the Consolidated Public
100 Retirement Board as set forth in subsection (a) of this section
101 for which no trustee has been expressly designated in this code.

102 (h) The board may employ the West Virginia Investment
103 Management Board to provide investment management
104 consulting services for the investment of funds in the Teachers'
105 Defined Contribution System.

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



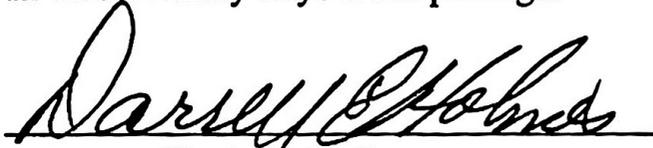
Chairman Senate Committee



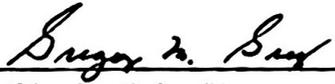
Chairman House Committee

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