

HB 4595 S

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

## House Bill No. 4595

(By Delegates Michael, Williams, Kominar,  
Stalnaker, H. White, G. White and Ashley)



Passed March 11, 2006

In Effect Ninety Days from Passage

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**E N R O L L E D**

**H. B. 4595**

(BY DELEGATES MICHAEL, WILLIAMS, KOMINAR,  
STALNAKER, H. WHITE, G. WHITE AND ASHLEY)

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

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AN ACT to amend and reenact §12-6C-7 and §12-6C-9 of the Code of West Virginia, 1931, as amended, all relating to authorizing the Board of Treasury Investments to retain, rather than require it to retain, one employee with a chartered financial analyst designation or an employee who is a certified treasury manager; removing the restriction on investing in mortgage-backed securities; and adding certificates of deposit as an investment.

*Be it enacted by the Legislature of West Virginia:*

That §12-6C-7 and §12-6C-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 6C. WEST VIRGINIA BOARD OF TREASURY INVESTMENTS.**

**§12-6C-7. Management and control of fund; officers; staff; fiduciary or surety bonds for directors; liability of directors.**

1 (a) The management and control of the Consolidated Fund  
2 is vested solely in the board in accordance with the provisions  
3 of this article.

4 (b) The State Treasurer is the chairperson of the board. The  
5 board shall elect a vice chairperson. Annually, the directors  
6 shall elect a secretary to keep a record of the proceedings of the  
7 board and provide any other duties required by the board. The  
8 board may elect a person who is not a member of the board as  
9 secretary.

10 (c) The board may use the staff of the State Treasurer,  
11 employ personnel and contract with any person or entity needed  
12 to perform the tasks related to operating the Consolidated Fund.

13 (d) The board shall retain an internal auditor to report  
14 directly to the board and shall fix his or her compensation. As  
15 a minimum qualification, the internal auditor shall be a certified  
16 public accountant with at least three years' experience as an  
17 auditor. The internal auditor shall develop an internal audit  
18 plan, with board approval, for the testing of procedures, internal  
19 controls and the security of transactions.

20 (e) The board may retain one employee with a chartered  
21 financial analyst designation or an employee who is a certified  
22 treasury manager.

23 (f) Each director shall give a separate fiduciary or surety  
24 bond from a surety company qualified to do business within this  
25 state in a penalty amount of one million dollars for the faithful  
26 performance of his or her duties as a director. The board shall  
27 purchase a blanket bond for the faithful performance of its  
28 duties in the amount of fifty million dollars or in an amount  
29 equivalent to one percent of the assets under management,  
30 whichever is greater. The amount of the blanket bond is in  
31 addition to the one million dollar individual bond required of  
32 each director by the provisions of this section. The board may

33 require a fiduciary or surety bond from a surety company  
34 qualified to do business in this state for any person who has  
35 charge of, or access to, any securities, funds or other moneys  
36 held by the board and the amount of the fiduciary or surety  
37 bond are fixed by the board. The premiums payable on all  
38 fiduciary or surety bonds are expenses of the board.

39 (g) The directors, employees of the board and employees of  
40 the State Treasurer performing work for or on behalf of the  
41 board are not liable personally, either jointly or severally, for  
42 any debt or obligation created by the board: *Provided*, That the  
43 directors and employees of the board are liable for acts of  
44 misfeasance or gross negligence.

45 (h) The board is exempt from the provisions of article three,  
46 chapter five-a, and sections seven and eleven, article three,  
47 chapter twelve of this code. However, the board is subject to the  
48 purchasing policies and procedures of the State Treasurer's  
49 Office.

**§12-6C-9. Asset allocation; investment policies, authorized invest-  
ments; restrictions.**

1 (a) The board shall develop, adopt, review or modify an  
2 asset allocation plan for the Consolidated Fund at each annual  
3 board meeting.

4 (b) The board shall adopt, review, modify or cancel the  
5 investment policy of each fund or pool created at each annual  
6 board meeting. For each participant directed account authorized  
7 by the State Treasurer, staff of the board shall develop an  
8 investment policy for the account and create the requested  
9 account. The board shall review all existing participant directed  
10 accounts and investment policies at its annual meeting for  
11 modification.

12 (c) The board shall consider the following when adopting,  
13 reviewing, modifying or canceling investment policies:

- 14 (1) Preservation of capital;
  - 15 (2) Risk tolerance;
  - 16 (3) Credit standards;
  - 17 (4) Diversification;
  - 18 (5) Rate of return;
  - 19 (6) Stability and turnover;
  - 20 (7) Liquidity;
  - 21 (8) Reasonable costs and fees;
  - 22 (9) Permissible investments;
  - 23 (10) Maturity ranges;
  - 24 (11) Internal controls;
  - 25 (12) Safekeeping and custody;
  - 26 (13) Valuation methodologies;
  - 27 (14) Calculation of earnings and yields;
  - 28 (15) Performance benchmarks and evaluation; and
  - 29 (16) Reporting.
- 30 (d) No security may be purchased by the board unless the  
31 type of security is on a list approved at a board meeting. The  
32 board shall review the list at its annual meeting.
- 33 (e) Notwithstanding the restrictions which are otherwise  
34 provided by law with respect to the investment of funds, the  
35 board and all participants, now and in the future, may invest  
36 funds in these securities:

37 (1) Obligations of, or obligations that are insured as to  
38 principal and interest by, the United States of America or any  
39 agency or corporation thereof and obligations and securities of  
40 the United States sponsored enterprises, including, without  
41 limitation:

42 (i) United States Treasury;

43 (ii) Export-Import Bank of the United States;

44 (iii) Farmers Home Administration;

45 (iv) Federal Farm Credit Banks;

46 (v) Federal Home Loan Banks;

47 (vi) Federal Home Loan Mortgage Corporation;

48 (vii) Federal Land Banks;

49 (viii) Government National Mortgage Association;

50 (ix) Merchant Marine bonds; and

51 (x) Tennessee Valley Authority Obligations.

52 (2) Obligations of the Federal National Mortgage Associa-  
53 tion;

54 (3) Commercial paper with one of the two highest commer-  
55 cial paper credit ratings by a nationally recognized investment  
56 rating firm;

57 (4) Corporate debt rated in one of the six highest rating  
58 categories by a nationally recognized rating agency;

59 (5) State and local government, or any instrumentality or  
60 agency thereof, securities with one of the three highest ratings  
61 by a nationally recognized rating agency;

62 (6) Repurchase agreements involving the purchase of  
63 United States Treasury securities and repurchase agreements  
64 fully collateralized by obligations of the United States govern-  
65 ment or its agencies or instrumentalities;

66 (7) Reverse repurchase agreements involving the purchase  
67 of United States Treasury securities and reverse repurchase  
68 agreements fully collateralized by obligations of the United  
69 States government or its agencies or instrumentalities;

70 (8) Asset-backed securities rated in the highest category by  
71 a nationally recognized rating agency;

72 (9) Certificates of deposit; and

73 (10) Investments in accordance with the Linked Deposit  
74 Program, a program using financial institutions in West  
75 Virginia to obtain certificates of deposit, loans approved by the  
76 Legislature and any other programs authorized by the Legisla-  
77 ture.

78 (f) In addition to the restrictions and conditions contained  
79 in this section:

80 (1) At no time shall more than seventy-five percent of the  
81 Consolidated Fund be invested in any bond, note, debenture,  
82 commercial paper or other evidence of indebtedness of any  
83 private corporation or association;

84 (2) At no time shall more than five percent of the Consoli-  
85 dated Fund be invested in securities issued by a single private  
86 corporation or association; and

87 (3) At no time shall less than fifteen percent of the Consoli-  
88 dated Fund be invested in any direct obligation of or obligation  
89 guaranteed as to the payment of both principal and interest by  
90 the United States of America.

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

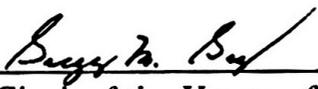
  
Chairman Senate Committee

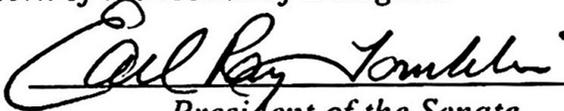
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

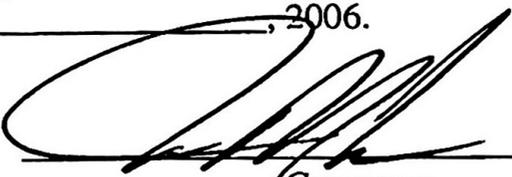
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 30  
day of April, 2006.

  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 3 0 2006

Time 2:55 pm

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