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

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

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

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

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

(f) Each director shall give a separate fiduciary or surety bond from a surety company qualified to do business within this state in a penalty amount of one million dollars for the faithful performance of his or her duties as a director. The board shall purchase a blanket bond for the faithful performance of its duties in the amount of fifty million dollars or in an amount equivalent to one percent of the assets under management, whichever is greater. The amount of the blanket bond is in addition to the one million dollar individual bond required of each director by the provisions of this section. The board may
require a fiduciary or surety bond from a surety company qualified to do business in this state for any person who has charge of, or access to, any securities, funds or other moneys held by the board and the amount of the fiduciary or surety bond are fixed by the board. The premiums payable on all fiduciary or surety bonds are expenses of the board.

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

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

§12-6C-9. Asset allocation; investment policies, authorized investments; restrictions.

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

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

(c) The board shall consider the following when adopting, reviewing, modifying or canceling investment policies:
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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:
(1) Obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency or corporation thereof and obligations and securities of the United States sponsored enterprises, including, without limitation:

- (i) United States Treasury;
- (ii) Export-Import Bank of the United States;
- (iii) Farmers Home Administration;
- (iv) Federal Farm Credit Banks;
- (v) Federal Home Loan Banks;
- (vi) Federal Home Loan Mortgage Corporation;
- (vii) Federal Land Banks;
- (viii) Government National Mortgage Association;
- (ix) Merchant Marine bonds; and
- (x) Tennessee Valley Authority Obligations.

(2) Obligations of the Federal National Mortgage Association;

(3) Commercial paper with one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm;

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

(5) State and local government, or any instrumentality or agency thereof, securities with one of the three highest ratings by a nationally recognized rating agency;
(6) Repurchase agreements involving the purchase of United States Treasury securities and repurchase agreements fully collateralized by obligations of the United States government or its agencies or instrumentalities;

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

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

(9) Certificates of deposit; and

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

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

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

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

(3) At no time shall less than fifteen percent of the Consolidated Fund be invested in any direct obligation of or obligation guaranteed as to the payment of both principal and interest by 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 was approved this the 30th day of April, 2006.

Governor