

HB 3097 3

FILED

2007 APR -3 PM 4: 25

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2007



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 3097**

(By Delegates Moore and Craig)



Passed March 10, 2007

In Effect Ninety Days from Passage

FILED

2007 APR -3 PM 4:25

**E N R O L L E D** OFFICE WEST VIRGINIA  
SECRETARY OF STATE

COMMITTEE SUBSTITUTE

FOR

# **H. B. 3097**

(BY DELEGATES MOORE AND CRAIG)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §5-10B-3a and §5-10B-10a; and to amend and reenact §36-8-13 of said code, all relating to government employees deferred compensation plans; authorizing automatic enrollment in a plan; authorizing a matching contribution program; establishing matching program term; establishing qualifications for participation; limiting the match to twenty-five percent of employee contributions at a maximum of one hundred dollars per year, not to exceed four hundred dollars over the life of the matching program; establishing the Deferred Compensation Matching Fund; specifying that operation of a matching program is contingent upon funding by the Legislature and may be changed or discontinued at any time for a time certain or

indefinitely; specifying that disbursements from the matching fund may not exceed one million dollars in any one fiscal year; allowing earnings to accrue to the matching fund; requiring the unclaimed property administrator to transfer two million dollars from the unclaimed property trust fund to the matching fund on or before the first day of June, two thousand seven, and one million dollars on or before the first day of June, two thousand eight.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §5-10B-3a and §5-10B-10a; and that §36-8-13 of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE  
AND ATTORNEY GENERAL.**

**ARTICLE 10B. GOVERNMENT EMPLOYEES DEFERRED  
COMPENSATION PLANS.**

**§5-10B-3a. Automatic enrollment.**

1 (a) Every state employee commencing work on and after  
2 the first day of July, two thousand seven, shall have a  
3 minimum of ten dollars per pay period of his or her salary  
4 deferred to the state deferred compensation plan unless the  
5 state employee provides written notice declining to  
6 participate in accordance with the Treasurer's guidelines. A  
7 state employee may change the contribution amount or cease  
8 participating at any time. An employee declining  
9 participation in the state deferred compensation plan may  
10 elect to participate at a later time.

11 (b) A political subdivision may establish an automatic  
12 enrollment program in a deferred compensation plan pursuant  
13 to this article. A political subdivision employee may elect to  
14 not participate in the deferred compensation plan at any time  
15 and to change the contribution amount.

**§5-10B-10a. Matching contribution program.**

1 (a) For a period commencing the first day of July, two  
2 thousand seven, and continuing through the thirtieth day of  
3 September, two thousand twelve, the Treasurer is authorized  
4 to establish and operate a savings incentive program pursuant  
5 to section 401(a) of the Internal Revenue Code of 1986, as  
6 amended, in which a state employee participating in the  
7 deferred compensation plan authorized in this article may  
8 receive certain matching contributions pursuant to this  
9 section. The Treasurer shall establish matching program  
10 guidelines in accordance with this article.

11 (b) To qualify for participation in the matching program,  
12 a state employee shall have contributed to his or her deferred  
13 compensation account not less than ten dollars every pay  
14 period during a fiscal year.

15 (c)(1) Subject to the limitations provided by subdivision  
16 (2) of this subsection and subsections (e) and (f) of this  
17 section, the Treasurer shall allocate and credit a matching  
18 sum of up to twenty-five percent of the contributions a  
19 qualified state employee made to his or her deferred  
20 compensation account during a fiscal year subsequent to  
21 qualifying to participate in the matching program for a period  
22 of up to five fiscal years, which contributions shall be at least  
23 ten dollars in every pay period during the fiscal year, and  
24 which matching contributions for any employee shall not  
25 exceed one hundred dollars in any one fiscal year and four  
26 hundred dollars total over the life of the matching program.

27 (2) The Treasurer shall set the amount of funds a  
28 qualified state employee may receive as a match in  
29 accordance with this section in an amount not to exceed the  
30 amount of funds authorized by the Legislature for this  
31 purpose.

32 (d) The matching contribution shall be remitted annually  
33 by the Treasurer from the West Virginia Deferred  
34 Compensation Matching Fund, which is hereby created, to  
35 the employee's account in the West Virginia Deferred

36 Compensation Trust Fund no later than the thirtieth day of  
37 September each year for the prior fiscal year.

38 (e) The Treasurer shall not obligate, authorize or pay any  
39 match for which funds are not available in the West Virginia  
40 Deferred Compensation Matching Fund.

41 (f) Operation of the matching program is contingent upon  
42 funding made available by the West Virginia Legislature and  
43 may be changed or discontinued at any time for a time certain  
44 or indefinitely, as determined by the Legislature or the  
45 Treasurer. The maximum amount of funds that may be  
46 expended from the Deferred Compensation Matching Fund  
47 in any one fiscal year is one million dollars.

48 (g) On or before the first day of June, two thousand  
49 seven, the unclaimed property administrator shall transfer the  
50 amount of two million dollars from the Unclaimed Property  
51 Trust Fund, created in section thirteen, article eight, chapter  
52 thirty-six of this code, to the Deferred Compensation  
53 Matching Fund for operation of the matching program. On  
54 or before the first day of June, two thousand eight, the  
55 unclaimed property administrator shall transfer the amount of  
56 one million dollars from the Unclaimed Property Trust Fund  
57 to the Deferred Compensation Matching Fund for operation  
58 of the matching program.

59 (h) Moneys in the Deferred Compensation Matching  
60 Fund may be invested, in whole or in part, with the West  
61 Virginia Board of Treasury Investments or any other entity  
62 the Treasurer selects, and all earnings shall accrue to and be  
63 retained by the fund.

64 (i) The State of West Virginia, the Treasurer and his or  
65 her employees, agents and representatives shall not be liable  
66 for any losses incurred by the Deferred Compensation  
67 Matching Fund.

68 (j) Any moneys remaining in the Deferred Compensation  
69 Matching Fund at the termination of the matching program  
70 shall be transferred to the General Revenue Fund of the state

71 no later than the thirty-first day of December, two thousand  
72 twelve.

73 (k) Any public employer may elect to operate its own  
74 matching program.

## **CHAPTER 36. ESTATES AND PROPERTY.**

### **ARTICLE 8. THE UNIFORM UNCLAIMED PROPERTY ACT.**

#### **§36-8-13. Deposit of funds.**

1 (a) The administrator shall record the name and last  
2 known address of each person appearing from the holders  
3 reports to be entitled to the property and the name and last  
4 known address of each insured person or annuitant and  
5 beneficiary and with respect to each policy or annuity listed  
6 in the report of an insurance company, its number, the name  
7 of the company and the amount due.

8 (b) The Unclaimed Property Fund is continued. The  
9 administrator shall deposit all funds received pursuant to this  
10 article in the Unclaimed Property Fund, including the  
11 proceeds from the sale of abandoned property under section  
12 twelve of this article. In addition to paying claims of  
13 unclaimed property duly allowed, the administrator may  
14 deduct the following expenses from the Unclaimed Property  
15 Fund:

16 (1) Expenses of the sale of abandoned property;

17 (2) Expenses incurred in returning the property to  
18 owners, including without limitation the costs of mailing and  
19 publication to locate owners;

20 (3) Reasonable service charge; and

21 (4) Expenses incurred in examining records of holders of  
22 property and in collecting the property from those holders.

23 (c) The Unclaimed Property Trust Fund is continued  
24 within the State Treasury. After deducting the expenses  
25 specified in subsection (b) of this section and maintaining a  
26 sum of money from which to pay claims duly allowed, the  
27 administrator shall transfer the remaining moneys in the  
28 Unclaimed Property Fund to the Unclaimed Property Trust  
29 Fund.

30 (d) On or before the fifteenth day of December of each  
31 year and after receipt of a report from the Chairman of the  
32 Board of Trustees of the West Virginia College Prepaid  
33 Tuition and Savings Program stating the amount certified by  
34 an actuary in accordance with the provisions of section six,  
35 article thirty, chapter eighteen of this code, notwithstanding  
36 any provision of this code to the contrary, the administrator  
37 shall transfer the sum of money certified by the actuary from  
38 the Unclaimed Property Trust Fund to the Prepaid Tuition  
39 Trust Escrow Fund, the amount transferred not to exceed one  
40 million dollars annually.

41 (e) On or before the first day of June, two thousand  
42 seven, the unclaimed property administrator shall transfer the  
43 amount of two million dollars from the Unclaimed Property  
44 Trust Fund to the Deferred Compensation Matching Fund for  
45 operation of the deferred compensation matching program for  
46 state employees. On or before the first day of June, two  
47 thousand eight, the unclaimed property administrator shall  
48 transfer the amount of one million dollars from the  
49 Unclaimed Property Trust Fund to the Deferred  
50 Compensation Matching Fund for operation of the matching  
51 program.

52 (f) After transferring any money required by subsections  
53 (d) and (e) of this section, the administrator shall transfer  
54 moneys remaining in the Unclaimed Property Trust Fund to  
55 the General Revenue Fund.

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

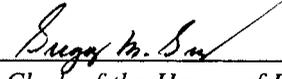
  
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Chairman Senate Committee

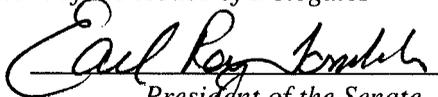
  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

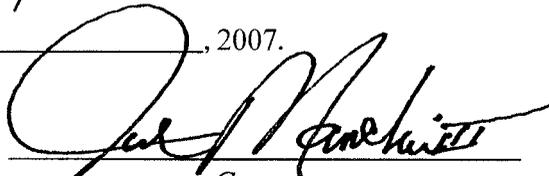
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 3rd  
day of April, 2007.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 26 2007

Time

4:00 pm