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
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
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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.

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

(b) A political subdivision may establish an automatic enrollment program in a deferred compensation plan pursuant to this article. A political subdivision employee may elect to not participate in the deferred compensation plan at any time and to change the contribution amount.
§5-10B-10a. Matching contribution program.

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

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

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

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

(d) The matching contribution shall be remitted annually by the Treasurer from the West Virginia Deferred Compensation Matching Fund, which is hereby created, to the employee’s account in the West Virginia Deferred
Compensation Trust Fund no later than the thirtieth day of September each year for the prior fiscal year.

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

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

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

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

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

(j) Any moneys remaining in the Deferred Compensation Matching Fund at the termination of the matching program shall be transferred to the General Revenue Fund of the state
no later than the thirty-first day of December, two thousand twelve.

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

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 8. THE UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-13. Deposit of funds.

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

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

1. Expenses of the sale of abandoned property;

2. Expenses incurred in returning the property to owners, including without limitation the costs of mailing and publication to locate owners;

3. Reasonable service charge; and

4. Expenses incurred in examining records of holders of property and in collecting the property from those holders.
(c) The Unclaimed Property Trust Fund is continued within the State Treasury. After deducting the expenses specified in subsection (b) of this section and maintaining a sum of money from which to pay claims duly allowed, the administrator shall transfer the remaining moneys in the Unclaimed Property Fund to the Unclaimed Property Trust Fund.

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

(e) On or before the first day of June, two thousand seven, the unclaimed property administrator shall transfer the amount of two million dollars from the Unclaimed Property Trust Fund to the Deferred Compensation Matching Fund for operation of the deferred compensation matching program for state employees. On or before the first day of June, two thousand eight, the unclaimed property administrator shall transfer the amount of one million dollars from the Unclaimed Property Trust Fund to the Deferred Compensation Matching Fund for operation of the matching program.

(f) After transferring any money required by subsections (d) and (e) of this section, the administrator shall transfer moneys remaining in the Unclaimed Property Trust Fund to the General Revenue Fund.
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 3rd

day of April, 2007.

Governor
PRESENTED TO THE GOVERNOR

MAR 26 2007

Time 4:00 PM