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WEST VIRGINIA LEGISLATURE

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

SEVENTY-NINTH LEGISLATURE

SECOND EXTRAORDINARY SESSION, 2010

—●—
ENROLLED

Senate Bill No. 2003

(BY SENATORS TOMBLIN (MR. PRESIDENT) AND HALL,
BY REQUEST OF THE EXECUTIVE)

[Passed July 21, 2010; in effect from passage.]

SB 2003

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Senate Bill No. 2003

(BY SENATORS TOMBLIN (MR. PRESIDENT) AND HALL,
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[Passed July 21, 2010; in effect from passage.]

AN ACT to amend and reenact §12-1-12d of the Code of West Virginia, 1931, as amended, relating to investments by Marshall University and West Virginia University; and retroactively extending the authority for the investment of certain university funds by the nonprofit foundations of Marshall University and West Virginia University.

Be it enacted by the Legislature of West Virginia:

That §12-1-12d of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-12d. Investments by Marshall University and West Virginia University.

- 1 (a) Notwithstanding any provision of this article to the
- 2 contrary, the governing boards of Marshall University and
- 3 West Virginia University each may invest certain funds
- 4 with its respective nonprofit foundation that has been

5 established to receive contributions exclusively for that
6 university and which exists on January 1, 2005. Any such
7 investment is subject to the limitations of this section.

8 (b) A governing board, through its chief financial officer
9 may enter into agreements, approved as to form by the
10 State Treasurer, for the investment by its foundation of
11 certain funds subject to their administration. Any interest
12 or earnings on the moneys invested is retained by the
13 investing university.

14 (c) Moneys of a university that may be invested with its
15 foundation pursuant to this section are those subject to the
16 administrative control of the university that are collected
17 under an act of the Legislature for specific purposes and
18 do not include any funds made available to the university
19 from the state General Revenue Fund or the funds estab-
20 lished in sections eighteen or eighteen-a, article twenty-
21 two, chapter twenty-nine of this code. Moneys permitted
22 to be invested under this section may be aggregated in an
23 investment fund for investment purposes.

24 (d) Of the moneys authorized for investment by this
25 section, Marshall University and West Virginia University
26 each, respectively, may have invested with its foundation
27 at any time not more than the greater of:

28 (1) \$18 million for Marshall University and \$25 million
29 for West Virginia University; or

30 (2) Sixty-five percent of its unrestricted net assets as
31 presented in the statement of net assets for the fiscal year
32 end audited financial reports.

33 (e) Investments by foundations that are authorized under
34 this section shall be made in accordance with and subject
35 to the provisions of the Uniform Prudent Investor Act
36 codified as article six-c, chapter forty-four of this code.
37 As part of its fiduciary responsibilities, each governing

38 board shall establish investment policies in accordance
39 with the Uniform Prudent Investor Act for those moneys
40 invested with its foundation. The governing board shall
41 review, establish and modify, if necessary, the investment
42 objectives as incorporated in its investment policies so as
43 to provide for the financial security of the moneys invested
44 with its foundation. The governing boards shall give
45 consideration to the following:

46 (1) Preservation of capital;

47 (2) Diversification;

48 (3) Risk tolerance;

49 (4) Rate of return;

50 (5) Stability;

51 (6) Turnover;

52 (7) Liquidity; and

53 (8) Reasonable cost of fees.

54 (f) A governing board shall report annually by December
55 31 to the Governor and to the Joint Committee on Govern-
56 ment and Finance on the performance of investments
57 managed by its foundation pursuant to this section.

58 (g) The authority of a governing board to invest moneys
59 with its foundation pursuant to this section expires on
60 July 1, 2011.

61 (h) The amendments to this section in the second ex-
62 traordinary session of the Legislature in 2010 shall apply
63 retroactively so that the authority granted by this section
64 shall be construed as if that authority did not expire on
65 July 1, 2010.

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

Eric B. Wells
.....

Member ~~Chairman~~ Senate Committee

Dancy Wells
.....

Chairman House Committee

Originated in the Senate.

In effect from passage.

Darrell Holmes
.....

Clerk of the Senate

Bryce D. Smith
.....

Clerk of the House of Delegates

Carl Ray Tomblin
.....

President of the Senate

Robert Thayer
.....

Speaker House of Delegates

The within *is approved* this the *26th*

Day of *July* 2010.

[Signature]
.....

Governor

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OFFICE OF THE CLERK
SECRETARY OF STATE

PRESENTED TO THE
GOVERNOR

JUL 26 2010

Time 9:10 am