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CLERK OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2837

(By Delegate(s) Boggs, White, Reynolds, Hunt, Guthrie, Perdue,
Pethel, Williams, Manypenny, R. Phillips and Skaff)



Passed April 13, 2013

In effect ninety days from passage.

HB 2837

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WEST VIRGINIA
LEGISLATURE
OFFICE OF THE CLERK
STATE HOUSE
CHARLESTON, WEST VIRGINIA

FOR

H. B. 2837

(BY DELEGATE(S) BOGGS, WHITE, REYNOLDS,
HUNT, GUTHRIE, PERDUE, PETHTEL, WILLIAMS,
MANYPENNY, R. PHILLIPS AND SKAFF)

[Passed April 13, 2013; in effect ninety days from passage.]

AN ACT to repeal §12-1-12c of the Code of West Virginia, 1931, as amended; to repeal §12-6B-1, §12-6B-2, §12-6B-3 and §12-6B-4 of said code; to amend and reenact §5-10B-13 of said code; to amend said code by adding thereto a new section, designated §5-10B-14; to amend and reenact §12-1-3, §12-1-8 and §12-1-11 of said code; to amend and reenact §12-2-2 and §12-2-3 of said code; to amend and reenact §12-3A-3 of said code; to amend said code by adding thereto a new section, designated §12-4-17; to amend and reenact §12-5-4 of said code; to amend and reenact §12-6A-1, §12-6A-2, §12-6A-3, §12-6A-4 and §12-6A-5, §12-6A-6 and §12-6A-7 of said code; to amend and reenact §12-6C-7 and §12-6C-9 of said code; to amend and reenact §33-3-14d of said code; and to amend and reenact §36-8-13 of said code, all relating to the state treasurer's office; authorizing the deferred compensation plan to accept qualified domestic relations

orders; authorizing Roth accounts within the deferred compensation plan in accordance with the Internal Revenue Code; authorizing financial institutions to offer products in addition to certificates of deposit; updating references to investing authorities to include the Board of Treasury Investments; raising the amount of eligible deposits from \$100,000 to the amount insured by a federal agency; providing requirements to be eligible depositories; providing for conflicts of interest for applicants and employees of the Treasurer's office in connection with financial institutions; authorizing depositories to submit reports in an electronic format; changing the requirement that deposits are required within 24 hours to one business day; changing the report to the Legislative Auditor for accounts outside the treasury from quarterly to an annual report; authorizing the Treasurer to determine the competitive bidding of banking, investment and related goods and services required for treasury operations; authorizing the Treasurer to develop procedures for storing, retaining and disposing of records for his or her office; ensuring the director of the division of archives and history receives records with historical value; clarifying that the Treasurer is responsible for earnings received on securities, not just interest; consolidating the debt capacity division into the debt management division; providing legislative findings to acknowledge the importance of monitoring the debt of the state and its spending units; continuing division of debt management as the central information source for debt issued by the state and its spending units; defining debt to include debentures, lease purchases, mortgages, securitizations and other types of obligations with specific amounts owed and payable on demand or on determinable dates; defining debt impact report, moral obligation bond, net tax supported debt and tax supported debt; defining spending unit; eliminating requirement for developing a long-term debt plan; authorizing the division to continuously evaluating debt and debt service requirements of the state and its spending units; authorizing the division to issue a debt impact report if requested by the Governor, Senate President or House of Delegates Speaker and that the report shall not restrict the

Governor, Legislature or spending unit; requiring the division to monitor continuing disclosure requirements and post-issuance compliance issues; eliminating requirement that the debt management division provide staff for the debt capacity division; providing for reporting by the division and the spending units; requiring the division to prepare and issue the debt capacity report; authorizing the Treasurer to promulgate the rules in certain circumstances; altering the bond required for the Board of Treasury Investments from \$50 million to at least \$10 million, as set by the board; updating language pertaining to rating agencies to nationally recognized statistical rating organizations; permitting pools with weighted average maturity or duration of 366 days or more to invest in investment grade corporate debt securities; authorizing investments in money market and other fixed income funds; providing that securities falling out of compliance with the Code do not have to be sold if the investment manager and investment consultant recommend retention; satisfying amounts due to and from policemen's and firemen's pension and relief funds and the Teachers Retirement System; authorizing transfer of moneys from the Unclaimed Property Trust Fund for payment to policemen's and firemen's pension and relief funds.

Be it enacted by the Legislature of West Virginia:

That §12-1-12c of the Code of West Virginia, 1931, as amended, be repealed; that §12-6B-1, §12-6B-2, §12-6B-3 and §12-6B-4 of said code be repealed; that §5-10B-13 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §5-10B-14; that §12-1-3, §12-1-8 and §12-1-11 of said code be amended and reenacted; that §12-2-2 and §12-2-3 of said code be amended and reenacted; that §12-3A-3 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §12-4-17; that §12-5-4 of said code be amended and reenacted; that §12-6A-1, §12-6A-2, §12-6A-3, §12-6A-4 and §12-6A-5, §12-6A-6 and §12-6A-7 of said code be amended and reenacted; that §12-6C-7 and §12-6C-9 of said code be amended and reenacted; that §33-3-14d of said code be amended and reenacted; 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; BOARD OF PUBLIC
WORKS, MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

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

**§5-10B-13. Moneys not subject to legal process; qualified
domestic relations orders.**

1 No account, benefit or right, created pursuant to this
2 article, accrued or accruing, is subject to execution,
3 garnishment, attachment, sale to satisfy a judgment or order,
4 the operation of bankruptcy or insolvency laws, or other
5 process of law and shall be unassignable, except that
6 accounts, benefits and contributions under the plan are
7 subject to "qualified domestic relations orders" as that term
8 is defined in Internal Revenue Code §414(p).

§5-10B-14. Roth accounts.

1 The Treasurer or any public employer may authorize
2 Roth accounts within the plan in accordance with the
3 Internal Revenue Code, including, without limitation,
4 conversions, deferrals, rollovers and transfers.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 1. STATE DEPOSITORIES.

§12-1-3. Depositories for interest earning deposits; qualifications.

1 Any state or national bank or any state or federal savings and
2 loan association in this state shall, upon request made to the

3 State Treasurer, be designated as an eligible depository for
4 interest earning deposits of state funds if such bank or state or
5 federal savings and loan association meets the requirements set
6 forth in this chapter. For purposes of this article, the term
7 "interest earning deposits" includes certificates of deposit or
8 other financial institution products. The State Treasurer shall
9 make and apportion such interest earning deposits and shall
10 prescribe the interest rates, terms and conditions of deposits, all
11 in accordance with the provisions of articles six and six-c of this
12 chapter: *Provided*, That state or federal savings and loan
13 associations insured by an agency of the federal government
14 shall be eligible for such deposits not in excess of the amount
15 insured by any agency of the federal government.

§12-1-8. Conflict of interest.

1 An employee or a person applying for a position with the
2 office of the Treasurer shall disclose to the Treasurer if he or she,
3 or his or her spouse, is an officer, director or employee of a
4 depository or owns greater than two percent of a depository. Any
5 employee of the office of the Treasurer who, or whose spouse,
6 is an officer, director or employee of a depository or owns
7 greater than two percent of a depository may not participate in
8 any selection of or in any contract negotiations with any
9 depository.

**§12-1-11. Reports by depositories to Treasurer; discontinuance of
depositories.**

1 (a) Each depository of state funds shall at the end of each
2 quarter cause its president or designated officer to report to the
3 Treasurer the amount of state funds on deposit and the report
4 shall be verified by the affidavit of the officer making it. The
5 form and contents of the report shall be prescribed by the
6 Treasurer and may be in an electronic format.

7 (b) For the failure to file the report, or for other good cause,
8 the Treasurer may discontinue any depository as an eligible

9 depository and cause all state funds to be withdrawn from any
10 depository or depositories discontinued.

11 (c) When a depository is discontinued, the Treasurer shall
12 immediately notify such depository of its discontinuance, and
13 shall immediately withdraw by current checks or by transfer to
14 another depository or depositories the full amount of the deposits
15 held by any depository discontinued. After discontinuance, it
16 shall be unlawful for the Treasurer to deposit any state funds in
17 any depository discontinued until such time as the depository
18 may be reinstated to eligibility.

**ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER AMOUNTS
DUE THE STATE OR ANY POLITICAL SUBDIVISION.**

**§12-2-2. Itemized record of moneys received for deposit;
regulations governing deposits; credit to state fund;
exceptions.**

1 (a) All officials and employees of the state authorized by
2 statute to accept moneys on behalf of the State of West Virginia
3 shall keep a daily itemized record of moneys received for deposit
4 in the State Treasury and shall deposit within one business day
5 with the State Treasurer all moneys received or collected by
6 them for or on behalf of the state for any purpose whatsoever.
7 The State Treasurer may grant an exception to the one business
8 day rule when circumstances make compliance difficult or
9 expensive. The State Treasurer may review the procedures and
10 methods used by officials and employees authorized to accept
11 moneys due the state and change the procedures and methods if
12 he or she determines it is in the best interest of the state:
13 *Provided*, That the state Treasurer may not review or amend the
14 procedures by which the Department of Revenue accepts moneys
15 due the state. The State Treasurer shall propose rules for
16 legislative approval, in accordance with the provisions of article
17 three, chapter twenty-nine-a of this code governing the
18 procedure for deposits. The official or employee making deposits
19 with the state Treasurer shall prepare deposit lists in the manner

20 and upon report forms prescribed by the state Treasurer in the
21 state accounting system. The State Treasurer shall review the
22 deposits in the state accounting system and forward the
23 information to the State Auditor and to the Secretary of Revenue.

24 (b) All moneys received by the state from appropriations
25 made by the Congress of the United States shall be recorded in
26 special fund accounts, in the State Treasury apart from the
27 general revenues of the state, and shall be expended in
28 accordance with the provisions of article eleven, chapter four of
29 this code. All moneys, other than federal funds, defined in
30 section two, article eleven, chapter four of this code, shall be
31 credited to the state fund and treated by the State Auditor and
32 State Treasurer as part of the general revenue of the state except
33 the following funds which shall be recorded in separate
34 accounts:

35 (1) All funds excluded by the provisions of section six,
36 article eleven, chapter four of this code;

37 (2) All funds derived from the sale of farm and dairy
38 products from farms operated by any spending unit of the state;

39 (3) All endowment funds, bequests, donations, executive
40 emergency funds and death and disability funds;

41 (4) All fees and funds collected at state educational
42 institutions for student activities;

43 (5) All funds derived from collections from dormitories,
44 boardinghouses, cafeterias and road camps;

45 (6) All moneys received from counties by institutions for the
46 deaf and blind on account of clothing for indigent pupils;

47 (7) All insurance collected on account of losses by fire and
48 refunds;

49 (8) All funds derived from bookstores and sales of blank
50 paper and stationery, and collections by the chief inspector of
51 public offices;

52 (9) All moneys collected and belonging to the capitol
53 building fund, state road fund, state road sinking fund, general
54 school fund, school fund, state fund (moneys belonging to
55 counties, districts and municipalities), state interest and sinking
56 funds, state compensation funds, the fund maintained by the
57 Public Service Commission for the investigation and supervision
58 of applications and all fees, money, interest or funds arising from
59 the sales of all permits and licenses to hunt, trap, fish or
60 otherwise hold or capture fish and wildlife resources and money
61 reimbursed and granted by the federal government for fish and
62 wildlife conservation: and

63 (10) All moneys collected or received under any act of the
64 Legislature providing that funds collected or received under the
65 act shall be used for specific purposes.

66 (c) All moneys, except as provided in subdivisions (1)
67 through (9), inclusive, subsection (b) of this section, shall be
68 paid into the State Treasury in the same manner as collections
69 not excepted and recorded in separate accounts for receipt and
70 expenditure for the purposes for which the moneys are
71 authorized to be collected by law: *Provided*, That amounts
72 collected pursuant to subdivisions (1) through (10), subsection
73 (b) of this section, which are found, from time to time, to exceed
74 funds needed for the purposes set forth in general law may be
75 transferred to other accounts or funds and redesignated for other
76 purposes by appropriation of the Legislature. The gross amount
77 collected in all cases shall be paid into the State Treasury.
78 Commissions, costs and expenses, including, without limitation,
79 amounts charged for use of bank, charge, credit or debit cards,
80 incurred in the collection process shall be paid from the gross
81 amount collected in the same manner as other payments are
82 made from the State Treasury.

83 (d) The State Treasurer may establish an imprest fund or
84 funds in the office of any state spending unit upon receipt of a
85 proper application. To implement this authority, the State
86 Treasurer shall propose rules for legislative approval in
87 accordance with the provisions of article three, chapter
88 twenty-nine-a of this code. The State Treasurer or his or her
89 designee shall annually audit all imprest funds and prepare a list
90 of the funds showing the location and amount as of fiscal year
91 end, retaining the list as a permanent record of the State
92 Treasurer until the Legislative Auditor has completed an audit of
93 the imprest funds of all agencies and institutions involved.

94 (e) The State Treasurer may develop and implement a
95 centralized receipts processing center. The State Treasurer may
96 request the transfer of equipment and personnel from appropriate
97 state agencies to the centralized receipts processing center in
98 order to implement the provisions of this section: *Provided*, That
99 the Governor or appropriate constitutional officer has authority
100 to authorize the transfer of equipment or personnel to the
101 centralized receipts processing center from the respective
102 agency.

§12-2-3. Deposit of moneys not due the State.

1 (a) All officials and employees of the State authorized to
2 accept moneys that the State Treasurer determines or that this
3 code specifies are not funds due the State pursuant to the
4 provisions of section two of this article shall deposit the moneys,
5 as soon as practicable, in the manner and in the depository
6 specified by the State Treasurer. The State Treasurer shall
7 prescribe the forms and procedures for depositing the moneys.

8 (b) Notwithstanding any provision of this code to the
9 contrary, including provisions stating funds collected are not
10 state funds and provisions authorizing a spending unit to have
11 one or more accounts outside the Treasury, a spending unit shall
12 comply with the State Treasurer's procedures for the receipt and

13 disbursement of moneys not due the state and obtain written
14 authorization from the State Treasurer before depositing any
15 moneys in an account outside the Treasury. Upon the State
16 Treasurer`s written revocation of the authorization, the spending
17 unit shall deposit funds deposited in an account outside the
18 Treasury into the Treasury in the manner and in the depository
19 specified by the State Treasurer. The State Treasurer is the final
20 determining authority as to whether these funds are funds due or
21 not due the state pursuant to section two of this article.

22 (c) The State Treasurer shall provide the Legislative Auditor
23 with report of all accounts authorized under this section.

ARTICLE 3A. FINANCIAL ELECTRONIC COMMERCE.

§12-3A-3. Financial electronic commerce.

1 (a) The State Auditor and the State Treasurer shall
2 implement electronic commerce capabilities for each of their
3 offices to facilitate the performance of their duties under this
4 code. The State Treasurer shall competitively bid the selection
5 of vendors needed to provide the necessary banking, investment
6 and related goods and services, and the provisions of article
7 one-b, chapter five, and articles three and seven, chapter five-a
8 of this code shall not apply, unless requested by the State
9 Treasurer.

10 (b) A document or a signature received, issued or used by
11 the Auditor or the Treasurer shall be considered an original and
12 may not be denied legal effect on the ground that it is in
13 electronic form.

14 (c) The Auditor or Treasurer may, in his or her discretion,
15 require documents filed with or submitted to his or her
16 respective office be filed or submitted in a prescribed electronic
17 format.

18 (d) The Auditor or Treasurer, in his or her discretion, may
19 waive:

20 (1) Any requirements for a document filed or submitted in
21 an electronic format; or

22 (2) Any requirements for the certification, notarization or
23 verification of a document filed or submitted in an electronic
24 format.

25 (e) The head of each spending unit is responsible for
26 adopting and implementing security procedures to ensure
27 adequate integrity, security, confidentiality and auditability of
28 the business transactions of his or her spending unit when
29 utilizing electronic commerce.

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

§12-4-17. Retention and disposal of Treasurer's records.

1 The Treasurer shall develop procedures for the storage,
2 retention and disposal of records filed with, submitted to or
3 created by the Treasurer's office. The procedures shall comply
4 with the requirements for state records, as defined in section
5 three, article eight, chapter five-a of this code, and for the
6 reproduction and preservation of essential state records, as
7 defined in section four, article eight, chapter five-a of this code.
8 Preservation duplicates, as defined in section three, article eight,
9 chapter five-a of this code, shall be maintained in an unalterable
10 readable electronic media in accordance with industry standards,
11 reviewed for accuracy and indexed, and shall have the same
12 force and effect as the original records whether the original
13 records are in existence or not. The procedures shall provide for
14 the maintenance of the confidentiality of the records and ensure
15 the director of the division of archives and history receives the
16 records the director identifies as having historic value. The
17 Treasurer shall purchase the equipment and supplies needed for
18 record retention as part of his or her electronic commerce
19 activities: *Provided*, That this section shall not limit the
20 responsibility of the Treasurer to provide all documents

21 necessary for the State Auditor, the Department of Revenue and
22 the State Tax Department to complete their duties.

ARTICLE 5. PUBLIC SECURITIES.

§12-5-4. Treasurer to keep accounts and make collections.

1 The Treasurer shall keep an accurate account of all securities
2 received by him or her and collect and account for earnings
3 received and the principal whenever it is due.

ARTICLE 6A. THE DEBT MANAGEMENT ACT

§12-6A-1. Short title.

1 This article shall be known and may be cited as “The Debt
2 Management Act”.

§12-6A-2. Legislative findings and declaration of public necessity.

1 The Legislature hereby finds and declares that in order to
2 maintain the strong financial management of the state, to meet
3 the fiscal needs of state government and to facilitate financing
4 essential capital projects at the lowest possible cost to the
5 citizens of the state, the state must regularly monitor the amount
6 of debt issued by the state and its spending units, ensure the state
7 and its spending units meet all debt service requirements,
8 monitor the credit rating of the state and analyze the acceptance
9 of debt issued by the state and its spending units. The Legislature
10 further finds that in order to meet these important goals, the
11 Division of Debt Management needs to be continued.

§12-6A-3. Division of Debt Management continued; director.

1 (a)The Division of Debt Management is continued in the
2 office of the State Treasurer.

3 (b) The Division shall serve as a central information source
4 concerning the incurrence, recording and reporting of debt issued

5 by the state and its spending units, and shall prepare reports
6 pertaining to the capacity of the state and its spending units to
7 issue debt.

8 (c) The Treasurer shall appoint a director, qualified by
9 reason of exceptional training and experience in the field of
10 activities of his or her respective Division, and who shall serve
11 at the will and pleasure of the Treasurer.

§12-6A-4. Definitions.

1 For the purpose of this article:

2 "Debt" means bonds, notes, certificates of participation,
3 certificate transactions, capital leases, debentures, lease
4 purchases, mortgages, securitizations and all other forms of
5 securities and indebtedness obligations evidencing specific
6 amounts owed and payable on demand or on determinable dates.

7 "Debt impact report" means a report prepared by the division
8 which includes information pertaining to a proposed issuance of
9 debt by the state or its spending units.

10 "Division" means the Division of Debt Management.

11 "Moral obligation bond" means a debt obligation for which
12 the state or a spending unit has made a nonbinding covenant to
13 make up any deficiency in debt service.

14 "Net tax supported debt" means the amount of tax supported
15 debt less any applicable refundings, defeasances, escrow
16 accounts, reserve requirements and sinking funds.

17 "State" means the State of West Virginia.

18 "Spending unit" means a state department, agency, board,
19 commission, committee, authority or other entity of the state
20 with the power to issue and secure debt. Spending unit does not
21 include local political subdivisions.

22 “Tax-supported debt” means: (1) General obligation bonds
23 of the state; (2) moral obligation bonds of the state or a spending
24 unit; (3) capital leases, installment purchases, lease purchases,
25 mortgages, certificates of participation and any other similar
26 debt financing transaction extending beyond one year issued by
27 the state or its spending units; and (4) any other debt issued by
28 the state or a spending unit which is not self-supporting. Debt
29 issued by the West Virginia housing development fund,
30 economic development authority, hospital finance authority,
31 parkway authority, public energy authority, solid waste
32 management board and water development authority, with the
33 exception of debt secured by lottery revenues or secured by a
34 lease with the Secretary of Administration, is not tax-supported
35 debt.

§12-6A-5. Powers and duties.

1 The Division of Debt Management shall perform the
2 following functions and duties:

3 (1) Continuously evaluate the current and projected debt and
4 debt service requirements of the State and its spending units.

5 (2) Evaluate cash flow projections relative to proposed and
6 existing revenue bond issues.

7 (3) Issue a debt impact report if requested by the Governor,
8 the President of the Senate or the Speaker of the House of
9 Delegates. The Division may request any additional information
10 needed to issue a debt impact report. A debt impact report shall
11 in no way restrict the Governor, the Legislature or the spending
12 unit.

13 (4) Act as liaison with the Legislature on all debt matters,
14 including, but not limited to, new debt issues and the status of
15 debt issued by the State and its spending units.

16 (5) Assist the State and its spending units regarding the
17 issuance of debt if requested.

18 (6) Establish reporting requirements for the issuance of debt
19 by the State and its spending units pursuant to the provisions of
20 this article.

21 (7) Monitor continuing disclosure requirements and
22 post-issuance compliance issues with federal and state tax and
23 securities law, including, without limitation, arbitrage, rebate
24 and remedial measures.

25 (8) Make and execute contracts and other instruments and
26 pay the reasonable value of services or commodities rendered to
27 the division pursuant to those contracts.

28 (9) Contract, cooperate or join with any one or more other
29 governments or public agencies, with any political subdivision
30 of the State, or with the United States, to perform any
31 administrative service, activity or undertaking which the
32 contracting party is authorized by law to perform, charge for
33 providing services and expend any fees collected.

34 (10) Do all things necessary or convenient to effectuate the
35 intent of this article and to carry out its powers and functions.

§12-6A-6. Reporting.

1 (a) Within fifteen days following the end of each calendar
2 quarter, each state spending unit shall provide the division and
3 the Legislative Auditor, in the manner provided by this article
4 and in such form and detail as the State Treasurer may require,
5 a report including, but not limited to, the name of the state
6 spending unit, the amounts and types of debt incurred during the
7 calendar quarter and outstanding at the end of the calendar
8 quarter, the cost and expenses of incurring the debt, the maturity
9 date of each debt, the terms and conditions of the debt, the
10 current debt service on the debt, the interest rate on the debt, the
11 source of the proceeds utilized for repayment of the debt, the
12 amounts of repayment during the calendar quarter, the
13 repayment schedule and the security for the debt. A state

14 spending unit having no outstanding debt shall not be required
15 to provide the quarterly report but shall file an annual report, on
16 forms established by the Division of Debt Management:
17 *Provided*, That the state spending unit shall immediately notify
18 the Division of Debt Management of any change in the spending
19 unit's outstanding debt or financial condition.

20 (b) Not less than thirty days prior to a proposed offering of
21 debt by the state or a state spending unit, written notice of the
22 proposed offering and the terms thereof shall be given to the
23 Division by the state spending unit in the form as the Division
24 may require.

25 (c) Within thirty days after closing on an offering, the
26 responsible spending unit shall report to the division the
27 information pertaining to the offering required by the division in
28 the form the division may require.

29 (d) On or before January 31 and July 31 of each year, the
30 division shall prepare and issue a report of all debt of the State
31 and its spending units and of all proposed debt issuances of
32 which the division has received notice and shall furnish a copy
33 of the report to the Governor, the President of the Senate, the
34 Speaker of the House of Delegates, the members of the Joint
35 Committee on Government and Finance, the Legislative Auditor
36 and upon request to any other legislative committee and any
37 member of the Legislature. The report shall be kept available for
38 inspection by any citizen of the state. The division shall also
39 prepare updated reports of all debt of the state and its spending
40 units as of March 31 and September 30 each year, which shall be
41 available for inspection at the office of the state Treasurer within
42 thirty days of the end of the respective calendar quarter.

43 (e) On or before January 15 each year, the division shall
44 report to the Governor and to the Legislature on the capacity of
45 the state to issue additional debt. In preparing its annual review
46 and estimate, the division shall, at a minimum, consider:

47 (1) The amount of net tax supported debt outstanding and
48 debt authorized but not issued during the current and next fiscal
49 year and annually for the following ten fiscal years;

50 (2) Debt service requirements during the current and next
51 fiscal year and annually for the following ten fiscal years based
52 upon existing outstanding debt, previously authorized but
53 unissued debt and projected bond authorizations;

54 (3) Any information available from the budget office of the
55 department of revenue in connection with projected revenues and
56 anticipated capital expenditures projected for at least the next
57 five fiscal years;

58 (4) The amount of debt the state and its spending units may
59 prudently issue;

60 (5) What is needed to keep West Virginia within an average
61 to low range of nationally recognized debt limits;

62 (6) The debt ratios rating agencies and analysts use; and

63 (7) The effect of authorizations of new tax supported debt on
64 each of the considerations in this subsection.

§12-6A-7. Promulgation of rules.

1 The Treasurer shall propose rules for legislative approval
2 relating to the reporting requirements and duties under this
3 article in accordance with the provisions of article three, chapter
4 twenty-nine-a of this code.

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 shall
6 elect a secretary to keep a record of the proceedings of the Board
7 and provide any other duties required by the board. The board
8 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 a
15 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 plan,
18 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 duties
28 in the amount set by the board of at least \$10 million. The
29 amount of the blanket bond is in addition to the \$1 million
30 individual bond required of each director by the provisions of
31 this section. The Board may require a fiduciary or surety bond
32 from a surety company qualified to do business in this state for
33 any person who has charge of, or access to, any securities, funds
34 or other moneys held by the board and the amount of the
35 fiduciary or surety bond are fixed by the board. The premiums
36 payable on all fiduciary or surety bonds are expenses of the
37 board.

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

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

**§12-6C-9. Asset allocation; investment policies, authorized
investments; 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
53 Association;
- 54 (3) Commercial paper with one of the two highest
55 commercial paper credit ratings by a nationally recognized
56 statistical rating organization;
- 57 (4) Corporate debt rated in one of the six highest rating
58 categories by a nationally recognized statistical rating
59 organization;
- 60 (5) Corporate debt rated investment grade by a nationally
61 recognized statistical rating organization for pools with a
62 weighted average maturity or duration of at least three hundred
63 sixty-six days;
- 64 (6) State and local government, or any instrumentality or
65 agency thereof, securities with one of the three highest ratings by
66 a nationally recognized statistical rating organization;

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

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

75 (9) Asset-backed securities rated in the highest category by
76 a nationally recognized statistical rating organization;

77 (10) Certificates of deposit;

78 (11) Money market and other fixed income funds; and

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

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

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

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

93 (3) At no time shall less than fifteen percent of the
94 Consolidated Fund be invested in any direct obligation of or
95 obligation guaranteed as to the payment of both principal and
96 interest by the United States of America.

97 (g) Securities purchased in compliance with this article that
98 become non-compliant may be retained upon recommendation
99 of the investment manager of the security and the board
100 investment consultant.

CHAPTER 33. INSURANCE

ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURANCE.

§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.

1 (a) (1) For the purpose of providing additional revenue for
2 municipal policemen's and firemen's pension and relief funds
3 and the Teachers Retirement System Reserve Fund and for
4 volunteer and part-volunteer fire companies and departments,
5 there is hereby levied and imposed an additional premium tax
6 equal to one percent of taxable premiums for fire insurance and
7 casualty insurance policies. For purposes of this section,
8 casualty insurance does not include insurance on the life of a
9 debtor pursuant to or in connection with a specific loan or other
10 credit transaction or insurance on a debtor to provide indemnity
11 for payments becoming due on a specific loan or other credit
12 transaction while the debtor is disabled as defined in the policy.

13 (2) All moneys collected from this additional tax shall be
14 received by the commissioner and paid by him or her into a
15 special account in the State Treasury, designated the Municipal
16 Pensions and Protection Fund: *Provided*, That on or after
17 January 1, 2010, the commissioner shall pay ten percent of the
18 amount collected to the Teachers Retirement System Reserve
19 Fund created in section eighteen, article seven-a, chapter
20 eighteen of this code, twenty-five percent of the amount
21 collected to the Fire Protection Fund created in section
22 thirty-three of this article for allocation by the Treasurer to
23 volunteer and part-volunteer fire companies and departments
24 and sixty-five percent of the amount collected to the Municipal
25 Pensions and Protection Fund: *Provided, however*, That upon

26 notification by the Municipal Pensions Oversight Board
27 pursuant to the provisions of section eighteen-b, article
28 twenty-two, chapter eight of this code, on or after January 1,
29 2010, or as soon thereafter as the Municipal Pensions Oversight
30 Board is prepared to receive the funds, sixty-five percent of the
31 amount collected by the commissioner shall be deposited in the
32 Municipal Pensions Security Fund created in section
33 eighteen-b, article twenty-two, chapter eight of this code. The
34 net proceeds of this tax after appropriation thereof by the
35 Legislature is distributed in accordance with the provisions of
36 this section, except for distribution from proceeds pursuant to
37 subsection (d), section eighteen-a, article twenty-two, chapter
38 eight of this code.

39 (b) (1) Before the August 1 of each year, the treasurer of
40 each municipality in which a municipal policemen's or
41 firemen's pension and relief fund is established shall report to
42 the State Treasurer the average monthly number of members
43 who worked at least one hundred hours per month and the
44 average monthly number of retired members of municipal
45 policemen's or firemen's pension and relief fund or the
46 Municipal Police Officers and Firefighters Retirement System
47 during the preceding fiscal year: *Provided*, That beginning in
48 the year 2010 and continuing thereafter, the report shall be
49 made to the oversight board created in section eighteen-a,
50 article twenty-two, chapter eight of this code. These reports
51 received by the oversight board shall be provided annually to
52 the State Treasurer by September 1.

53 (2) Before September 1 of each calendar year, the State
54 Treasurer, or the Municipal Pensions Oversight Board, once in
55 operation, shall allocate and authorize for distribution the
56 revenues in the Municipal Pensions and Protection Fund which
57 were collected during the preceding calendar year for the
58 purposes set forth in this section. Before September 1 of each
59 calendar year and after the Municipal Pensions Oversight Board
60 has notified the Treasurer and commissioner pursuant to section

61 eighteen-b, article twenty-two, chapter eight of this code, the
62 Municipal Pensions Oversight Board shall allocate and
63 authorize for distribution the revenues in the Municipal
64 Pensions Security Fund which were collected during the
65 preceding calendar year for the purposes set forth in this
66 section. In any year the actuarial report required by section
67 twenty, article twenty-two, chapter eight of this code indicates
68 no actuarial deficiency in the municipal policemen's or
69 firemen's pension and relief fund, no revenues may be allocated
70 from the Municipal Pensions and Protection Fund or the
71 Municipal Pensions Security Fund to that fund. The revenues
72 from the Municipal Pensions and Protection Fund shall then be
73 allocated to all other pension and relief funds which have an
74 actuarial deficiency.

75 (3) The moneys, and the interest earned thereon, in the
76 Municipal Pensions and Protection Fund allocated to volunteer
77 and part-volunteer fire companies and departments shall be
78 allocated and distributed quarterly to the volunteer fire
79 companies and departments. Before each distribution date, the
80 State Fire Marshal shall report to the State Treasurer the names
81 and addresses of all volunteer and part-volunteer fire companies
82 and departments within the state which meet the eligibility
83 requirements established in section eight-a, article fifteen,
84 chapter eight of this code.

85 (c) (1) Each municipal pension and relief fund shall have
86 allocated and authorized for distribution a pro rata share of the
87 revenues allocated to municipal policemen's and firemen's
88 pension and relief funds based on the corresponding
89 municipality's average monthly number of police officers and
90 firefighters who worked at least one hundred hours per month
91 during the preceding fiscal year. On and after July 1, 1997,
92 from the growth in any moneys collected pursuant to the tax
93 imposed by this section and interest thereon there shall be
94 allocated and authorized for distribution to each municipal
95 pension and relief fund, a pro rata share of the revenues

96 allocated to municipal policemen's and firemen's pension and
97 relief funds based on the corresponding municipality's average
98 number of police officers and firefighters who worked at least
99 one hundred hours per month and average monthly number of
100 retired police officers and firefighters. For the purposes of this
101 subsection, the growth in moneys collected from the tax
102 collected pursuant to this section is determined by subtracting
103 the amount of the tax collected during the fiscal year ending
104 June 30, 1996, from the tax collected during the fiscal year for
105 which the allocation is being made and interest thereon. All
106 moneys received by municipal pension and relief funds under
107 this section may be expended only for those purposes described
108 in sections sixteen through twenty-eight, inclusive, article
109 twenty-two, chapter eight of this code.

110 (2) Each volunteer fire company or department shall
111 receive an equal share of the revenues allocated for volunteer
112 and part-volunteer fire companies and departments.

113 (3) In addition to the share allocated and distributed in
114 accordance with subdivision (1) of this subsection, each
115 municipal fire department composed of full-time paid members
116 and volunteers and part-volunteer fire companies and
117 departments shall receive a share equal to the share distributed
118 to volunteer fire companies under subdivision (2) of this
119 subsection reduced by an amount equal to the share multiplied
120 by the ratio of the number of full-time paid fire department
121 members who are also members of a municipal firemen's
122 pension and relief fund or the Municipal Police Officers and
123 Firefighters Retirement System to the total number of members
124 of the fire department.

125 (d) The allocation and distribution of revenues provided for
126 in this section are subject to the provisions of section twenty,
127 article twenty-two, and sections eight-a and eight-b, article
128 fifteen, chapter eight of this code.

129 (e) Based upon the findings of an audit by the Treasurer,
130 the Legislature hereby finds and declares that during the period

131 of 1982 through April 27, 2012 allocations from the Municipal
 132 Pensions and Protection Fund were miscalculated and errors
 133 were made in amounts transferred, resulting in overpayments
 134 and underpayments to the relief and pension funds and to the
 135 Teachers Retirement System, and that the relief and pension
 136 funds and the Teachers Retirement System were not at fault for
 137 any of the overpayments and underpayments. The Legislature
 138 hereby further finds and declares that any attempt by the
 139 Municipal Pension Oversight Board or other entity to recover
 140 any of the overpayments would be unjust and create economic
 141 hardship for the entities that received overpayments. No entity,
 142 including, without limitation, the Municipal Pension Oversight
 143 Board, may seek to recover from a relief or pension fund, the
 144 Teachers Retirement System or the state any overpayments
 145 received from the Municipal Pensions and Protection Fund and
 146 the overpayments are not subject to recovery, offset or
 147 litigation. Pursuant to the audit by the Treasurer, the amount of
 148 \$3,631,846.55 is determined owed to specific relief and pension
 149 funds through the period of April 27, 2012. The Treasurer is
 150 hereby authorized to transfer the amount of \$3,631,846.55 from
 151 the Unclaimed Property Trust Fund to the Municipal Pensions
 152 and Protection Fund, which is hereby reopened for the sole
 153 purpose of the transfer and remittances pursuant to this
 154 subsection (e), and to use the amount transferred to remit the
 155 amounts due to the pension and relief funds. The payment of
 156 the \$3,631,846.55 to the pension and relief funds is complete
 157 satisfaction of any amounts due, and no entity, including,
 158 without limitation, the Municipal Pension Oversight Board and
 159 any pension or relief fund, may seek to recover any further
 160 amounts.

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-13. Deposit of funds.

- 1 (a) The administrator shall record the name and last known
- 2 address of each person appearing from the holders reports to be

3 entitled to the property and the name and last known address of
4 each insured person or annuitant and beneficiary and with
5 respect to each policy or annuity listed in the report of an
6 insurance company, its number, the name of the company and
7 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 proceeds
11 from the sale of abandoned property under section twelve of
12 this article. In addition to paying claims of unclaimed property
13 duly allowed, the administrator may deduct the following
14 expenses from the Unclaimed Property Fund:

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

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

19 (3) Reasonable service charge; and

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

22 (c) The Unclaimed Property Trust Fund is continued within
23 the State Treasury. The administrator may invest the Unclaimed
24 Property Trust Fund with the West Virginia Board of Treasury
25 Investments and all earnings shall accrue to the fund and are
26 available for expenditure in accordance with this article. After
27 deducting the expenses specified in subsection (b) of this
28 section and maintaining a sum of money from which to pay
29 claims duly allowed, the administrator shall transfer the
30 remaining moneys in the Unclaimed Property Fund to the
31 Unclaimed Property Trust Fund.

32 (d)(1) On July 1, 2009, the unclaimed property
33 administrator shall transfer the amount of \$8 million from the

34 Unclaimed Property Trust Fund to the Prepaid Tuition Trust
35 Escrow Fund.

36 (2) On or before December 15 of each year,
37 notwithstanding any provision of this code to the contrary, the
38 administrator shall transfer the sum of \$1 million from the
39 Unclaimed Property Trust Fund to the Prepaid Tuition Trust
40 Escrow Fund, until the actuary certifies there are sufficient
41 funds to pay out all contracts.

42 (e) On or before June 1, 2007, the unclaimed property
43 administrator shall transfer the amount of \$2 million from the
44 Unclaimed Property Trust Fund to the Deferred Compensation
45 Matching Fund for operation of the deferred compensation
46 matching program for state employees. On or before June 1,
47 2008, the unclaimed property administrator shall transfer the
48 amount of \$1 million from the Unclaimed Property Trust Fund
49 to the Deferred Compensation Matching Fund for operation of
50 the matching program.

51 (f) On or before June 1, 2013, the unclaimed property
52 administrator shall transfer the amount of \$3,631,846.55 from
53 the Unclaimed Property Trust Fund to the Municipal Pensions
54 and Protection Fund for the purpose of satisfying any amounts
55 due as of April 27, 2012 to policemen's and firemen's pension
56 and relief funds in accordance with section fourteen-d, article
57 three, chapter thirty-three of this Code.

58 (g) After transferring any money required by subsections
59 (d) through (f) of this section, the administrator shall transfer
60 moneys remaining in the Unclaimed Property Trust Fund to the
61 General Revenue Fund.

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

Jimmy Wells
Chairman, House Committee

Rocky Filburn
Member - Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Dee Dee Day
Clerk of the House of Delegates

Joseph McMinard
Clerk of the Senate

Paul
Speaker of the House of Delegates

Jeffrey
President of the Senate

2013 MAY -2 PM 3:33
FILED
DEPT. OF STATE

The within is approved this the 2nd
day of May, 2013.

Carl Roy Tomblin
Governor

PRESENTED TO THE GOVERNOR

APR 29 2013

Time 10:15 am