WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 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.
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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, §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, §12-1-3 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.

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

§5-10B-14. Roth accounts.

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

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 1. STATE DEPOSITORIES.

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

Any state or national bank or any state or federal savings and loan association in this state shall, upon request made to the
State Treasurer, be designated as an eligible depository for interest earning deposits of state funds if such bank or state or federal savings and loan association meets the requirements set forth in this chapter. For purposes of this article, the term “interest earning deposits” includes certificates of deposit or other financial institution products. The State Treasurer shall make and apportion such interest earning deposits and shall prescribe the interest rates, terms and conditions of deposits, all in accordance with the provisions of articles six and six-c of this chapter: Provided, That state or federal savings and loan associations insured by an agency of the federal government shall be eligible for such deposits not in excess of the amount insured by any agency of the federal government.

§12-1-8. Conflict of interest.

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

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

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

(b) For the failure to file the report, or for other good cause, the Treasurer may discontinue any depository as an eligible
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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
and upon report forms prescribed by the state Treasurer in the
state accounting system. The State Treasurer shall review the
deposits in the state accounting system and forward the
information to the State Auditor and to the Secretary of Revenue.

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

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

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

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

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

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

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

(7) All insurance collected on account of losses by fire and
refunds;
(8) All funds derived from bookstores and sales of blank paper and stationery, and collections by the chief inspector of public offices;

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

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

(c) All moneys, except as provided in subdivisions (1) through (9), inclusive, subsection (b) of this section, shall be paid into the State Treasury in the same manner as collections not excepted and recorded in separate accounts for receipt and expenditure for the purposes for which the moneys are authorized to be collected by law: Provided, That amounts collected pursuant to subdivisions (1) through (10), subsection (b) of this section, which are found, from time to time, to exceed funds needed for the purposes set forth in general law may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The gross amount collected in all cases shall be paid into the State Treasury. Commissions, costs and expenses, including, without limitation, amounts charged for use of bank, charge, credit or debit cards, incurred in the collection process shall be paid from the gross amount collected in the same manner as other payments are made from the State Treasury.
(d) The State Treasurer may establish an imprest fund or funds in the office of any state spending unit upon receipt of a proper application. To implement this authority, the State Treasurer shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code. The State Treasurer or his or her designee shall annually audit all imprest funds and prepare a list of the funds showing the location and amount as of fiscal year end, retaining the list as a permanent record of the State Treasurer until the Legislative Auditor has completed an audit of the imprest funds of all agencies and institutions involved.

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

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

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

(b) Notwithstanding any provision of this code to the contrary, including provisions stating funds collected are not state funds and provisions authorizing a spending unit to have one or more accounts outside the Treasury, a spending unit shall comply with the State Treasurer’s procedures for the receipt and
disbursement of moneys not due the state and obtain written
authorization from the State Treasurer before depositing any
moneys in an account outside the Treasury. Upon the State
Treasurer’s written revocation of the authorization, the spending
unit shall deposit funds deposited in an account outside the
Treasury into the Treasury in the manner and in the depository
specified by the State Treasurer. The State Treasurer is the final
determining authority as to whether these funds are funds due or
not due the state pursuant to section two of this article.

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

ARTICLE 3A. FINANCIAL ELECTRONIC COMMERCE.


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

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

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

(d) The Auditor or Treasurer, in his or her discretion, may
waive:
(1) Any requirements for a document filed or submitted in an electronic format; or

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

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

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

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

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

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

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

ARTICLE 6A. THE DEBT MANAGEMENT ACT


This article shall be known and may be cited as "The Debt Management Act".

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

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

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

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

(b) The Division shall serve as a central information source concerning the incurrence, recording and reporting of debt issued
by the state and its spending units, and shall prepare reports
pertaining to the capacity of the state and its spending units to
issue debt.

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

§12-6A-4. Definitions.

For the purpose of this article:

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

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

“Division” means the Division of Debt Management.

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

“Net tax supported debt” means the amount of tax supported
debt less any applicable refundings, defeasances, escrow
accounts, reserve requirements and sinking funds.

“State” means the State of West Virginia.

“Spending unit” means a state department, agency, board,
commission, committee, authority or other entity of the state
with the power to issue and secure debt. Spending unit does not
include local political subdivisions.
"Tax-supported debt" means: (1) General obligation bonds of the state; (2) moral obligation bonds of the state or a spending unit; (3) capital leases, installment purchases, lease purchases, mortgages, certificates of participation and any other similar debt financing transaction extending beyond one year issued by the state or its spending units; and (4) any other debt issued by the state or a spending unit which is not self-supporting. Debt issued by the West Virginia housing development fund, economic development authority, hospital finance authority, parkway authority, public energy authority, solid waste management board and water development authority, with the exception of debt secured by lottery revenues or secured by a lease with the Secretary of Administration, is not tax-supported debt.


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

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

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

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

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

(5) Assist the State and its spending units regarding the issuance of debt if requested.
(6) Establish reporting requirements for the issuance of debt by the State and its spending units pursuant to the provisions of this article.

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

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

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

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

§12-6A-6. Reporting.

(a) Within fifteen days following the end of each calendar quarter, each state spending unit shall provide the division and the Legislative Auditor, in the manner provided by this article and in such form and detail as the State Treasurer may require, a report including, but not limited to, the name of the state spending unit, the amounts and types of debt incurred during the calendar quarter and outstanding at the end of the calendar quarter, the cost and expenses of incurring the debt, the maturity date of each debt, the terms and conditions of the debt, the current debt service on the debt, the interest rate on the debt, the source of the proceeds utilized for repayment of the debt, the amounts of repayment during the calendar quarter, the repayment schedule and the security for the debt. A state
spending unit having no outstanding debt shall not be required
to provide the quarterly report but shall file an annual report, on
forms established by the Division of Debt Management:
Provided, That the state spending unit shall immediately notify
the Division of Debt Management of any change in the spending
unit's outstanding debt or financial condition.

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

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

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

(e) On or before January 15 each year, the division shall
report to the Governor and to the Legislature on the capacity of
the state to issue additional debt. In preparing its annual review
and estimate, the division shall, at a minimum, consider:
(1) The amount of net tax supported debt outstanding and debt authorized but not issued during the current and next fiscal year and annually for the following ten fiscal years;

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

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

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

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

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

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


The Treasurer shall propose rules for legislative approval relating to the reporting requirements and duties under this article in accordance with the provisions of article three, chapter 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.

(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 set by the board of at least $10 million. The amount of the blanket bond is in addition to the $1 million 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:

(1) Preservation of capital;

(2) Risk tolerance;

(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 type of security is on a list approved at a board meeting. The board shall review the list at its annual meeting.
31 (e) Notwithstanding the restrictions which are otherwise provided by law with respect to the investment of funds, the board and all participants, now and in the future, may invest funds in these securities:
32 (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 statistical rating organization;

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

(5) Corporate debt rated investment grade by a nationally recognized statistical rating organization for pools with a weighted average maturity or duration of at least three hundred sixty-six days;

(6) State and local government, or any instrumentality or agency thereof, securities with one of the three highest ratings by a nationally recognized statistical rating organization;
(7) 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;

(8) 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;

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

(10) Certificates of deposit;

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

(12) 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.
(g) Securities purchased in compliance with this article that become non-compliant may be retained upon recommendation of the investment manager of the security and the board 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.

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

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

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

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

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

(c) (1) Each municipal pension and relief fund shall have allocated and authorized for distribution a pro rata share of the revenues allocated to municipal policemen’s and firemen’s pension and relief funds based on the corresponding municipality’s average monthly number of police officers and firefighters who worked at least one hundred hours per month during the preceding fiscal year. On and after July 1, 1997, from the growth in any moneys collected pursuant to the tax imposed by this section and interest thereon there shall be allocated and authorized for distribution to each municipal pension and relief fund, a pro rata share of the revenues
allocated to municipal policemen's and firemen's pension and
relief funds based on the corresponding municipality's average
number of police officers and firefighters who worked at least
one hundred hours per month and average monthly number of
retired police officers and firefighters. For the purposes of this
subsection, the growth in moneys collected from the tax
collected pursuant to this section is determined by subtracting
the amount of the tax collected during the fiscal year ending
June 30, 1996, from the tax collected during the fiscal year for
which the allocation is being made and interest thereon. All
moneys received by municipal pension and relief funds under
this section may be expended only for those purposes described
in sections sixteen through twenty-eight, inclusive, article
twenty-two, chapter eight of this code.

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

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

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

(e) Based upon the findings of an audit by the Treasurer,
the Legislature hereby finds and declares that during the period
of 1982 through April 27, 2012 allocations from the Municipal
Pensions and Protection Fund were miscalculated and errors
were made in amounts transferred, resulting in overpayments
and underpayments to the relief and pension funds and to the
Teachers Retirement System, and that the relief and pension
funds and the Teachers Retirement System were not at fault for
any of the overpayments and underpayments. The Legislature
hereby further finds and declares that any attempt by the
Municipal Pension Oversight Board or other entity to recover
any of the overpayments would be unjust and create economic
hardship for the entities that received overpayments. No entity,
including, without limitation, the Municipal Pension Oversight
Board, may seek to recover from a relief or pension fund, the
Teachers Retirement System or the state any overpayments
received from the Municipal Pensions and Protection Fund and
the overpayments are not subject to recovery, offset or
litigation. Pursuant to the audit by the Treasurer, the amount of
$3,631,846.55 is determined owed to specific relief and pension
funds through the period of April 27, 2012. The Treasurer is
hereby authorized to transfer the amount of $3,631,846.55 from
the Unclaimed Property Trust Fund to the Municipal Pensions
and Protection Fund, which is hereby reopened for the sole
purpose of the transfer and remittances pursuant to this
subsection (e), and to use the amount transferred to remit the
amounts due to the pension and relief funds. The payment of
the $3,631,846.55 to the pension and relief funds is complete
satisfaction of any amounts due, and no entity, including,
without limitation, the Municipal Pension Oversight Board and
any pension or relief fund, may seek to recover any further
amounts.

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 8. 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. The administrator may invest the Unclaimed Property Trust Fund with the West Virginia Board of Treasury Investments and all earnings shall accrue to the fund and are available for expenditure in accordance with this article. 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)(1) On July 1, 2009, the unclaimed property administrator shall transfer the amount of $8 million from the
Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Fund.

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

(e) On or before June 1, 2007, the unclaimed property administrator shall transfer the amount of $2 million 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 June 1, 2008, the unclaimed property administrator shall transfer the amount of $1 million from the Unclaimed Property Trust Fund to the Deferred Compensation Matching Fund for operation of the matching program.

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

(g) After transferring any money required by subsections (d) through (f) 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, House Committee

Member, Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

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

Governor