

FILED

2015 APR -2 P 12: 3'

WEST VIRGINIA LEGISLATURE

EIGHTY-SECOND LEGISLATURE

REGULAR SESSION, 2015

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 577

(BY SENATORS D. HALL, BOLEY, KARNES, LAIRD, PLYMALE,
ROMANO, STOLLINGS, TAKUBO AND SYPOLT)

[PASSED MARCH 14, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB577

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2015 APR -2 P 12: 37

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Senate Bill No. 577

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(BY SENATORS D. HALL, BOLEY, KARNES, LAIRD, PLYMALE,
ROMANO, STOLLINGS, TAKUBO AND SYPOLT)

[Passed March 14, 2015; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-1-12e, relating to allowing governing boards of certain four-year colleges and universities to invest certain funds with its respective nonprofit foundation that has been established to receive contributions exclusively for that institution and which exists on January 1, 2015.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §12-1-12e, to read as follows:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-12e. Investments by state colleges.

- 1 (a) Notwithstanding any provision of this article to the
- 2 contrary, the governing boards of four-year public colleges
- 3 and universities, with the exception of those schools provided
- 4 for in section twelve-d of this article, after first consulting

5 with the West Virginia Investment Management Board and
6 the State Board of Treasury Investments to determine what
7 their estimated rate of return on investment, including
8 administrative expenses, would be if the moneys to be
9 invested with the foundation were instead to be invested with
10 the Investment Management Board or the Board of Treasury
11 Investments when compared to any estimated return on
12 investment, including administrative expenses, provided by
13 the foundation, each may invest certain funds with its
14 respective nonprofit foundation that has been established to
15 receive contributions exclusively for that institution and
16 which exists on January 1, 2015. The investment is subject to
17 the limitations of this section.

18 (b) A governing board, through its chief financial officer,
19 may enter into agreements, approved as to form by the State
20 Treasurer, for the investment by its foundation of certain
21 funds subject to their administration. Any interest or earnings
22 on the moneys invested is retained by the investing
23 institution.

24 (c) Moneys of a four-year public college or university
25 that may be invested with its foundation pursuant to this
26 section are those subject to the administrative control of the
27 institution and that do not include any funds made available
28 to the institution from the state General Revenue Fund or the
29 funds established in section eighteen or eighteen-a, article
30 twenty-two, chapter twenty-nine of this code. Moneys
31 permitted to be invested under this section may be aggregated
32 in an investment fund for investment purposes.

33 (d) Of the moneys authorized for investment by this
34 section, each four-year public college or university that may
35 be invested with its foundation pursuant to this section, may
36 have invested with its foundation at any time no more than \$1
37 million excluding investment gains.

38 (e) Investments by foundations that are authorized under
39 this section shall be made in accordance with and subject to
40 the provisions of the Uniform Prudent Investor Act, codified
41 as article six-c, chapter forty-four of this code. As part of its
42 fiduciary responsibilities, each governing board shall
43 establish investment policies in accordance with the Uniform
44 Prudent Investor Act for those moneys invested with its
45 foundation. The governing board shall review, establish and
46 modify, if necessary, the investment objectives as
47 incorporated in its investment policies so as to provide for the
48 financial security of the moneys invested with its foundation.
49 The governing boards shall give consideration to the
50 following:

51 (1) Preservation of capital;

52 (2) Diversification;

53 (3) Risk tolerance;

54 (4) Rate of return;

55 (5) Stability;

56 (6) Turnover;

57 (7) Liquidity; and

58 (8) Reasonable cost of fees.

59 (f) Prior to the initial transfer of funds to a foundation, the
60 four-year public college or university shall submit its plan for
61 the investment of the funds with its foundation to the Higher
62 Education Policy Commission for its review. The purpose of
63 review shall solely be to determine if the plan is financially
64 prudent for the institution. Upon the commission's written
65 finding that the plan is financially prudent for the institution,

66 the institution is authorized to transfer its funds to the
67 foundation for purposes of investment under this section.

68 (g) No four-year public college or university may transfer
69 funds to its foundation pursuant to this section unless the
70 college or university has a long-term bond from not less than
71 two of the following rating entities of at least A3 by Moody's
72 Investors Service, A- by Standard & Poor's and A- by Fitch
73 Ratings.

74 (h) A governing board shall report annually by December
75 31 to the Governor and to the Joint Committee on
76 Government and Finance on the performance of investments
77 managed by its foundation pursuant to this section.

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

Mark R. Hayward
.....
Chairman Senate Committee

John B. Hill
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark A. Barre
.....
Clerk of the Senate

Stephen J. Harrison
.....
Clerk of the House of Delegates

W. D. Ralston
.....
President of the Senate

Barth S. Crum
.....
Speaker of the House of Delegates

The within *is approved* this the *2nd*
April
Day of, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2015

TIME 3:25 pm