

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: Board of Investments TITLE NUMBER: 113-1

CITE AUTHORITY West Virginia Code 12-6-5; 12-6-8

AMENDMENT TO AN EXISTING RULE: YES  NO

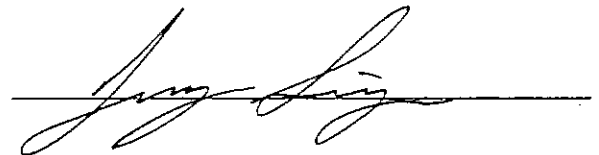
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series I

TITLE OF RULE BEING PROPOSED: Rules for the Administration of the  
Consolidated Fund by the West Virginia State Board of Investments.

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
West Virginia State Board of Investments

Chapter 12-6  
Series I  
(1990)

Subject: Rules for the Administration of the Consolidated Fund  
by the West Virginia State Board of Investments.

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
West Virginia State Board of Investments

Chapter 12-6

Series I

(1990)

Subject: Rules for the Administration of the Consolidated Fund  
by the West Virginia State Board of Investments.

Section 1. General

1.01. Scope - These rules implement the provisions of the Code of West Virginia, 1931 as amended, §12-6-1 et seq. relating to the Consolidated Fund established by §12-6-8(b).

1.02. Authority - West Virginia Code §12-6-5; 12-6-8.

1.03. Purpose - The general purpose of these rules is to aid in the implementation of the legislative findings and purpose set forth in the West Virginia Code §12-1-1, wherein the Board and the Treasurer are authorized to develop and maintain modern systems, consistent with sound financial practices, for the collection, disbursement, management and investment of public moneys. These rules and regulations implement such legislative intent by prescribing procedures for the administration of the Consolidated Fund by the Board and participation in the Consolidated Fund by state agencies (other than pension funds) and local governments.

1.04. Filing Date -

1.05. Effective Date -

1.06. Repeal of Former Rule - This legislative rule repeals and replaces WV 113 CSR1 "Rules For the Administration of the Consolidated Fund by the West Virginia Board of Investments" filed March 10, 1984 and effective March 10, 1984.

## Section 2. Definitions

For purposes of these rules, unless a different meaning clearly appears from the context:

"Board" means the West Virginia State Board of Investments;

"Code" means the West Virginia Code of 1931, as amended;

"Consolidated Fund" means the investment fund managed by the Board and established pursuant to the West Virginia Code §12-6-8;

"Local Government" means and includes a county, municipality, or any agency, authority, board, commission or instrumentality of a county or municipality, and regional councils created pursuant to the provisions of West Virginia Code §8-25-1 et. seq. police officers' pensions and relief funds and fire fighters' pension and relief funds;

"Local Government Account" means the special account for the common investment of local government funds within the Consolidated Fund established pursuant to West Virginia Code §12-6-8(b);

"Participant" means all state agencies, local governments and other entities or individuals investing moneys or assets with the Consolidated Fund;

The term "securities" has the same meaning set forth in West Virginia Code §12-6-2;

"Select U.S. Government Agency Obligation" means and includes any evidence of indebtedness issued by any of the following: the Government National Mortgage Association ("GNMA"), Federal Home Loan Banks ("FHLB"), Federal Farm Credit Banks ("FFCB"), and the Federal Land Banks;

"Treasurer" means the Treasurer of the State of West Virginia;

"U.S. Government Agency Obligation" means and includes any obligation of any United States government agency guaranteed as to the payment of both principal and interest, directly or indirectly, by the United States of America, including but not limited to the following: the GNMA; the FHLB; the FFCB; federal land banks; the Federal Home Loan Mortgage Corporation ("FHLMC"); the Federal National Mortgage Association ("FNMA"); federal home loan banks; federal intermediate credit banks; banks for cooperatives; Tennessee Valley Authority; United States Postal Service; Farmers Home Administration; Export-Import Bank; Federal Financing Bank; and Student Loan Marketing Association; and

"U.S. Government Obligations" means and includes any direct obligation of, or obligation guaranteed as to payment of both principal and interest by, the United States of America.

### Section 3. Participation in the Consolidated Fund

3.01. Participation by State Agencies - State agencies may participate in the Consolidated Fund by making written requests to the Treasurer. If a written request for deposit or withdrawal is made after 10:00 a.m. of the business day, the Treasurer is not required to execute such requests until the next business day. Written requests for deposits or withdrawals shall state the amount which the agency wishes to make available for investment, or the amount which it wishes to withdraw, as the case may be. Such requests shall also contain such other information the Treasurer considers necessary. The Treasurer may require twenty-four hours advance notice for withdrawals of one million (\$1,000,000.00) or more.

#### 3.02. Participation by Local Governments

(a) Local governments may commence participation in the Consolidated Fund by completing and returning to the Treasurer an "account request form." The form of the account request form shall be prescribed by the Treasurer, shall require such information as he considers necessary, and shall be made available to any local government upon request. The Treasurer shall require each local government to submit copies of resolutions, orders or other proof of authorization or election to participate in the Consolidated Fund. Upon receipt of the account request form and other required information, the Treasurer shall review and approve the account request form and if approved, the Treasurer shall assign an account number to the local government within the Local Government Account of the

Consolidated Fund. Local governments which require more than one account may request the establishment of additional accounts as needed, subject to the discretion of the Treasurer.

(b) All notifications of deposit of funds by local governments into the Local Government Account, shall be made by a telephone call to the Treasurer's Office no later than 10:00 a.m. of the business day on which the transaction is to be made. If a telephone notification of deposit is made after 10:00 a.m., the Treasurer is not required to execute such request until the next business day. All telephone notifications of deposits shall be confirmed in writing by the local government and sent by mail on the same day the notification is made. The Treasurer shall prescribe the forms which local governments shall use for the confirmation of such deposits by mail. All notifications of withdrawals of funds by the local governments from the Local Government Account shall be made by written request. The Treasurer shall prescribe the forms to be used for withdrawals.

(c) All deposits by local governments into the Local Government Account shall be made by wire transfer from the local government's bank to a bank designated by the Treasurer. All wired funds transferred by local governments shall be collected balances available for wire transfer and immediate credit at the Federal Reserve Bank. All checks shall be credited to the Local Government Account within two business days, following receipt by the Treasurer.

(d) Withdrawals by local governments from the Local Government Account shall be made by check, Automated Clearing

House or wire transfer of immediately available funds by the Treasurer to the local government's designated bank. Upon such transfer, the Treasurer shall debit the local government's account in the Consolidated Fund, including the local governments prorata share of the gains and losses incurred by the Fund. The Treasurer may require twenty-four hours advance notice for withdrawals of one million dollars (\$1,000,000.00) or more. Withdrawals of less than one hundred dollars (\$100.00) shall be made by check or Automated Clearing House.

(e) The Treasurer shall collect a fee, as determined by the Board, for the investment services being provided to local governments.

#### Section 4. Accounting

4.01. Nature of Ownership - Each Participant shall own an undivided interest in the portfolio of the Consolidated Fund based on the Participant's prorata contribution of assets at any time. Ownership shall be expressed in terms of units. One dollar shall equal one unit of ownership. Each Participant, by completing and returning an "Account Request Form" to the Treasurer, has consented to the methods of sharing gains and losses and all other accounting methods required or adopted by the Board.

4.02. Accounting System - The Treasurer shall implement an accounting system based on generally-accepted accounting procedures for earnings, deposits and withdrawals of each Participant in the Consolidated Fund. In conjunction with such

accounting system, the Treasurer shall adopt procedures which accurately reflect yields on investments through amortization of premium and accretion of discount over the life of the investment as determined by investment practices of the investment community. That is to say, for investments customarily having yields to the average life of the investment such as GNMA mortgage pools, the premium or discount shall be amortized to the average life. Premium or discount for all other investments shall be amortized over the life of the investment.

4.03. Trading Gains and Losses - The Board recognizes that it is impractical to amortize trading gains and losses over the life of all securities sold. Therefore, the Treasurer shall recognize all gains and losses within the month in which they occur. \_

4.04. Distribution of Earnings; Monthly Statement - The Board shall distribute interest monthly either by credit to the principal account of the Participant or by check. The choice of method of such distribution shall be at the Board's discretion. The Treasurer shall furnish to each Participant a monthly statement of earnings, deposits and withdrawals for each account. Monthly statements shall also include an accurate statement of the yield for the preceding month for the investment pool in which the Participant is investing.

Section 5. Investment of Consolidated Fund

5.01. General Investment Policies, Objectives and Restrictions

All investment pools in the Consolidated Fund shall be individually subject to the policies, objectives and restrictions set forth herein.

(a) Purpose - The Board's purpose is to invest and protect the assets of the Consolidated Fund for the benefit of the citizens of the State of West Virginia and to preserve principal and seek the highest investment return consistent with the fiduciary standards established under State and Federal Law, the rules and regulations of the State of West Virginia and the guidelines of the Board.

(b) Standard of Care - All investments are to be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which people of experience, prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(c) Permissible Investments - The Consolidated Fund shall comply with West Virginia Code §12-6-9, as amended, and these rules and regulations, with regard to permissible investments.

(d) Social Responsibility - To the extent that investments are consistent with all other standards established

by the Board, selection of investments should consider the best interests of the people of the State of West Virginia.

(e) Custody - The Board shall designate and maintain custodial arrangements in its sole discretion. However, no investment advisor shall maintain custody of the securities of the Consolidated Fund.

(f) Investment Advisors - The Board shall select and maintain investment advisors who shall act in accordance with the terms and conditions specified by the Board and the applicable requirements of State and Federal Law.

(g) Investment Objectives - All pools within the Consolidated Fund, except the single-purpose pools described in section 5.02(e) below, shall be subject to the investment objectives listed below in descending order of priority:

(1) Preservation of Capital - To preserve the capital investment in the Consolidated Fund.

(2) Liquidity - To maintain sufficient liquidity to provide for all anticipated withdrawals or transfers and to invest in securities with sufficient marketability to provide for unexpected withdrawals.

(3) Diversification - To diversify the investment of the assets of the Consolidated Fund so as to minimize the risk of large losses.

(4) Turnover - To minimize transaction costs.

(5) Stability - To maintain a high level of security in the Consolidated Fund by minimizing risk and volatility insofar as possible.

(6) Rate of Return - To achieve a rate of return consistent with the rate of return objectives set by the Board.

(h) Investment Restrictions

(1) The Consolidated Fund shall abide by the investment restrictions of West Virginia Code §12-6-10 and as further set forth by the Board.

(2) Not more than 20% of the portfolio of the Consolidated Fund may be invested in any single industry sector. (The utility sector shall be subdivided for the purposes of this restriction between telephone, electric, gas distribution, and similar utility industry segments.)

(3) Not more than 3% of the portfolio of the Consolidated Fund may be invested in the securities issued by a single, private corporation or association.

(4) The Consolidated Fund shall maintain a reasonable balance between the various classes of fixed income securities, without over concentration.

(5) The Consolidated Fund shall abide by the quality restrictions of West Virginia Code §12-6-9.

(6) Investment in financial futures contracts, options and other similar investments is prohibited.

(7) Minimum Amount of Investment - The minimum amount for investment in the Consolidated Fund is One Hundred Dollars (\$100.00). There is no minimum time for which deposits will be retained.

5.02. Investment Pools - The Consolidated Fund is composed of various investment pools. It is the intent of the Board that there be separate portfolio guidelines for the administration of each investment pool in addition to the policies, objectives and restrictions set forth in Section 5.01 above. The Office of the State Treasurer, as staff agency for the Board, shall administer each investment pool in the Consolidated Fund in accordance with the rules and regulations and such guidelines as may be further prescribed by the Board.

(a) Cash Liquidity Pool - This investment pool is composed of the operating funds of the State. Its purpose is to provide for the investment of all surplus funds of the State and to insure that there are sufficient funds available to meet the daily cash needs of the State. This pool is limited to securities with maturities of not greater than one year and the weighted average maturity of the securities in the portfolio may not exceed one hundred twenty (120) days. Also, the pool must meet all requirements outlined in the attached Tables I, II, and III. Due to the presently existing non-liquid investments contained in the portfolio of this pool on the effective date of these rules and regulations, the current investment portfolio may not be considered when applying the requirements outlined in the attached Tables I, II, and III.

(b) Restricted Pool - This investment pool is composed of Participants whose funds may only be invested in U.S. Government Obligations, select U.S. Government Agency Obligations or repurchase agreements. This pool is limited to maturities of not greater than five years and the weighted

average maturity of the securities in the portfolio shall not exceed two years. Also, the pool must meet all requirements outlined in the attached Tables A and B. Due to the length of maturity of the securities currently contained in the portfolio of this pool on the effective date of these rules and regulations, making up the portfolio, the current portfolio of the pool may not be considered when applying the requirements outlined in the attached Tables A and B.

(c) State Agency Trust Pool - This investment pool is composed of funds held in trust by state agencies. Investments in this pool are restricted to investments in U.S. Government Obligations, U.S. Government Agency Obligations or repurchase agreements. This pool is limited to maturities of not greater than five years. The weighted-average-maturity of the portfolio may not exceed two years. Also, the pool must meet all requirements outlined in the attached Tables A and B.

(d) Local Government Investment Pool - This investment pool is composed of funds invested by local governments. This pool is limited to maturities of not greater than one year. The weighted-average-maturity of the portfolio may not exceed one hundred twenty (120) days. Also, the pool must meet all requirements outlined in the attached Tables I, II, and III.

(e) Single Purpose Pools - These investment pools are designed to meet the needs of individual state agencies. The Office of the State Treasurer, as staff agency for the Board, shall invest only in the type of securities identified by the state agency controlling the pool, as recommended by the state agency and as necessary to meet the needs of each individual

pool as to type of security and length of maturity, provided that such investments consist solely of those permitted by this rule.

(f) Other Investment Pools - The Board is further authorized to establish additional investment pools as the need may arise, provided that within eighteen months after their establishment these rules and regulations are amended to reflect their existence and appropriate investment guidelines are established for each pool. This provision does not apply to any new single purpose pool established pursuant to Section 5.02(c) of this rule.

(g) Instructions for Use of Tables - The percentages in the "Minimum" column are the minimum percentages which the State Treasurer must maintain in each type of investment instrument. For example, the 15% figure in Table I, Line 1, means that the State Treasurer must at all times keep at least 15% of the investment pool invested in U.S. Government obligations. If the minimum percentage is "0", as in Table I, Line 2, the State Treasurer is not required to invest any moneys of the pool in securities of that type of investment.

The percentages in the "Maximum" column are the maximum percentages of the pool which may be maintained in each type of investment instrument. For example, in Table I, Line 1, the 100% figure in the "Maximum" column means that the State Treasurer may keep the entire pool invested in U.S. Government obligations.

If the maximum percentage is "10", as in Table I, Line 4, this means that the State Treasurer is permitted to invest in instruments of that type up to a maximum of 10% of the pool.

In Table I, the "Code Reference" column refers to the section of the West Virginia Code which authorized the kind of instrument described under the "Instrument" column.

TABLE I  
GUIDELINES FOR DIVERSIFICATION  
ACCORDING TO KIND OF INVESTMENT INSTRUMENT

<u>Instrument</u>	<u>Code Reference</u>	<u>Minimum</u>	<u>Maximum</u>
1. U.S. Government obligation	§12-6-9(a)	15%	100%
2. U.S. Agency obligation	§12-6-9(b)	0%	100%
3. Corporate bonds, notes debentures, commercial paper and other evidence of indebtedness	§12-6-9(g) §12-6-10(1)	0%	75%
4. Commercial paper and other corporate obligations maturing in less than one year	§12-6-9(g) §12-6-10(2)	0%	20%
5. Obligations of any single private corporation	§12-6-10(3)	0%	3%
6. Fully collateralized WV certificates of deposit maturing in less than one year	§12-6-9(h)	0%	30%
7. Repurchase agreements	§12-6-5(9)	0%	75%
8. Reverse repurchase agreement	§12-6-5(10)	0%	15%

TABLE II

GUIDELINES FOR DIVERSIFICATION  
ACCORDING TO QUALITY OF CORPORATE DEBT INSTRUMENTS  
AUTHORIZED BY TABLE I

<u>Instrument</u>	<u>Minimum</u>	<u>Maximum</u>
1. Corporate bonds and notes rated "AAA"	0%	100%
2. Corporate bonds and notes rated "AA"	0%	50%
3. Corporate bonds and notes rated "A"	0%	30%
4. Commercial paper rated in highest grade ("P-1" or equivalent)	0%	20%

Any Corporate debt instrument that is downgraded following purchase may be liquidated at the Treasurer's discretion if such downgrading puts the debt instruments out of compliance with Table II.

TABLE III

GUIDELINES FOR DIVERSIFICATION  
ACCORDING TO INVESTMENT MATURITY

<u>Maturity</u>	<u>Minimum</u>	<u>Maximum</u>
1. Within 91 days	10%	85%
2. Ninety-two (92) days up to, through and including 1 year	15%	90%

TABLE A

GUIDELINES FOR DIVERSIFICATION  
ACCORDING TO KIND OF INVESTMENT INSTRUMENT

<u>Instrument</u>	<u>Code Reference</u>	<u>Minimum</u>	<u>Maximum</u>
1. U.S. Government			
Obligation	§12-6-9(a)	15%	100%
2. Select U.S. Government			
Agency Obligation	§12-6-9(b)	0%	100%
3. Repurchase agreements	§12-6-5(9)	0%	75%
4. Reverse repurchase			
agreement	§12-6-5(10)	0%	15%

TABLE B

ACCORDING TO INVESTMENT MATURITY

<u>Maturity</u>	<u>Minimum</u>	<u>Maximum</u>
1. Within 91 days	10%	85%
2. Ninety-two (92) days up to, through and including 5 years	15%	90%

Section 6. Miscellaneous

6.01. Payment of Expenses from Earnings - The Treasurer shall deduct expenses incurred in the administration of the Consolidated Fund from the gross earnings of the fund prior to distribution of the earnings each month. Such fees shall be established by the Board on a pro rata basis.

6.02. Reserve for Losses - The Board is authorized to establish, by appropriate accounting method, a reserve for loan losses. No interest shall be included in earnings calculations on any loans that are delinquent by sixty days or more.

6.03. Board Reports - The Office of the State Treasurer, as staff agency for the Board, shall provide the Board a monthly report reflecting all purchases, sales, and trades for each investment pool. Also, a copy of the portfolio for each investment pool, reflecting the market value for each investment, shall be provided to the Board.

6.04. Authorized Financial Institutions and Brokers - The Office of the State Treasurer, acting as staff agency for the Board, may not do business with any financial institution or brokerage firm that has not been approved by the Board. At the first Board meeting of each fiscal year, the Treasurer shall provide for the Board's review a complete list of all financial institutions and brokerage firms currently on the approved list.

SERIESI/GEN8910

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
West Virginia State Board of Investments

Chapter 12-6

Series I

(1990)

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WEST VIRGINIA LEGISLATURE  
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-438, State Capitol  
Charleston, West Virginia 25305  
(304) 340-3286

Senator Lloyd Jackson, Co-Chairman  
Delegate Patrick H. Murphy, Co-Chairman

Debra A. Graham, Counsel  
Marie Nickerson, Receiving Clerk

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

January 18, 1990

TO: Ken Hechler, Secretary of State, State Register

TO: The Honorable Thomas Loehr  
State Treasurer  
State Capitol  
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Rules for the Administration of the Consolidated Fund

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed \_\_\_\_\_
  - (b) as modified by the agency     X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. \_\_\_\_\_
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. \_\_\_\_\_

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: D. Jerry Simpson  
Mark Asaad

1990 JAN 24 AM 9:17  
 FILED  
 DIRECTOR OF STATE REGISTER  
 SECRETARY OF STATE