

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Board of Investments TITLE NUMBER: 113

RULE TYPE: Legislative; CITE AUTHORITY 12-6-1 et seq WV Code

AMENDMENT TO AN EXISTING RULE: YES X NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: II

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

DATE OF PUBLIC HEARING: November 29, 1990 TIME: 9:30AM

LOCATION OF PUBLIC HEARING: State Capitol Complex Conference Center,
Building 7, Room D, Charleston, WV

COMMENTS LIMITED TO: ORAL____, WRITTEN____, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: State Treasurer's Office

State Capitol Building

Charleston, WV 25305

Attn: Jerry Simpson

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL _____

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The general purpose of these rules is to aid in the implementation of the legislative findings and purpose set forth in Section One, Article One, Chapter Twelve of the Code, where the Board is authorized to develop and maintain modern systems, consistent with sound financial practices, for the collection, disbursement, management and invest of public moneys. The rules of this series implement such legislative intent by prescribing procedures governing participation in, and administration of, the Consolidated Pension Fund to be administered by the Board, for the purpose of enabling the participating Pension Funds to maximize the return on their investments.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Administration of the Consolidated Pension Fund

Type of Rule: Legislative Interpretive Procedural

Agency Board of Investments Address _____

State Capitol Building - Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

N/A

2. Explanation of above estimates: These rules repeals and replaces the original rules filed in 1978. It is not anticipated that these rules will require the expenditure of any additional funds.

3. Objectives of these rules: The general purpose of these rules is to aid in the implementation of the legislative finding and purpose set forth in Section One, Article One, Chapter Twelve of the Code, wherein the Board is authorized to develop and maintain modern systems, consistent with sound financial practices, for the collection, disbursement, management and investment of public moneys. The rules of this series implement such legislative intent by prescribing procedures governing participation in, and administration of, the Consolidated Pension Fund to be administrated by the Board, for the purpose of enabling the participating Pension Funds to maximize the return on their investments.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

These proposed rules will continue to allow the pension funds of the State to be fully invested and accounted for on a more accurate basis.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.


Although there are currently no local government pension funds invested by the Board, these rules would insure that if this were to occur at some future date these funds would be properly accounted for.

C. Economic Impact on Citizens/Public at Large.

See 4A.

Date: 12/29/90

Signature of Agency Head or Authorized Representative



WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-6
Series II
(1990)

Subject: Rules for the Administration of the Consolidated
Pension 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 II
(1990)

Subject: Rules for the Administration of the Consolidated Pension 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 Pension 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 West Virginia Code §12-1-1, wherein the Board is 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 governing participation in, and administration of, the Consolidated Pension Fund to be administered by the Board, for the purpose of enabling the participating Pension Funds to maximize the return on their investments.

1.04. Filing Date -

1.05. Effective Date -

1.06. Repeal of Former Rule - This legislative rule repeals and replaces WV 113 CSR2 "Rules for the Administration of the Consolidated Pension Fund by the West Virginia State Board of Investments" filed April 13, 1990 and effective April 13, 1990.

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

"Participant" means all Pension Funds, entities or individuals contributing moneys or assets to the Consolidated Pension Fund;

"Pension Funds" means and includes the Workers' Compensation Fund; the Workers' Compensation Fund II; the Pneumoconiosis Fund; the State Teachers' Retirement System Fund; the Death, Disability and Retirement Fund for members of the Department of Public Safety's Division of Public Safety; the Public Employees' Retirement System Funds; the Judges' Retirement Fund; the Municipal Police Officers' Pension and

Relief Funds; the Fire Fighters' Pension and Relief Funds and such other retirement or pension funds and systems established on behalf of public employees of the State or of its political subdivisions and administered by the State;

"Securities" shall have 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), Resolution Trust Corporation Securities (RTC);

"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 Government National Mortgage Association (GNMA); the Federal Farm Credit Bank (FFCB); Federal Land Banks (FLB); the Federal Home Loan Mortgage Corporation (FHLMC); the Federal National Mortgage Association (FNMA); Federal Home Loan Banks (FHLB); Federal Intermediate Credit Banks; Banks For Cooperatives; Tennessee Valley Authority (TVA); United States Postal Service; Farmers Home Administration (FHA); Export-Import Bank; Federal Financing Bank; Student Loan Marketing Association (SLMA); Resolution Trust Corporation Securities (RTC); and Veterans Administration (VA); 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. Mechanics of Participation in the Consolidated Pension Fund

Pension Funds may participate in the Consolidated Pension Fund by making written requests to the Board of Investments. Written requests for deposits or withdrawals shall state the amount which the Pension Fund wishes to make available for investment, or the amount which it wishes withdraw, as the case may be. Such requests shall also contain other information which the Board of Investments considers necessary. The Board of Investments may require advance notice, as determined by the Board, for withdrawals of one million (\$1,000,000.00) or more.

Section 4. Accounting

4.01. Nature of Ownership - Each Participant shall own a hundred percent (100%) interest in the pool in which its funds are invested.

4.02. Accounting System - The Board of Investments shall implement an accounting system based on generally-accepted accounting principals.

4.03. Trading Gains and Losses - The Board of Investments shall recognize all trading gains and losses within the month in which they occur.

4.04. Distribution of Earnings; Monthly Statement - The Board of Investments shall furnish to each Participant a monthly statement of net earnings/losses, deposits and withdrawals for each account. Monthly statements shall also include an accurate statement of the yield for the preceding month for each individual investment pool.

Section 5. Investment of Consolidated Pension Fund

5.01. General Investment Policies, Objectives and Restrictions - All investment pools in the Consolidated Pension 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 Pension Fund for the benefit of the citizens of the State of West Virginia.

(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 Pension Fund shall abide by 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 custodian arrangements in its sole discretion and no investment advisor shall maintain custody of the securities of the Consolidated Pension Fund.

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

(g) Investment Objectives - All pools within the Consolidated Pension Fund 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 Pension Fund.

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

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

(4) Stability - To maintain a high level of security in the Consolidated Pension Fund by minimizing risk and volatility insofar as possible within the rate of return objectives set by the Board.

(5) Turnover - To minimize transaction costs.

(6) 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.

(h) Investment Restrictions

(1) The Consolidated Pension 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 Pension Fund may be invested in any single industry sector. (The utility industry shall be separated for the purpose of this restriction between telephone, electric, gas distribution, and similar segments.)

(3) Not more than 3% of the portfolio of the Consolidated Pension Fund may be invested in the

securities issued by a single, private corporation or association.

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

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

(6) Investment in financial futures contracts, options and other similar instruments shall be authorized for the sole purpose of performing hedges in order to reduce the risk associated with fluctuations in interest rates or market prices. Such investments shall be limited to direct obligations of, or obligations guaranteed as to the payment of both principal and interest by, the United States of America; namely, Treasury bills, notes, bonds and GNMMAs. For purposes of these rules and regulations, the word "hedge" means taking a position in the futures market which is opposite and approximately equal to the one held in the cash market. This is a defensive strategy and shall only be used to protect the overall values of the various portfolios. Advance unanimous approval of the Board must be obtained prior to each transaction in instruments of this type.

5.02. Investment Pools - The Consolidated Pension Fund is composed of various investment pools for the Pension Funds. 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 Board of Investments shall administer each investment pool in the Consolidated Pension Fund in accordance with the rules and regulations and as may be further prescribed by the Board. All the investment pools which compose the Consolidated Pension Fund shall be required to meet individually the guidelines outlined in the attached Tables I and II. Due to the presently existing non-liquid investments contained in the portfolio on the effective date of these rules and regulations, the current investment portfolio may not be considered when applying the maximum limit on the obligations of any single private corporation for 5 years from the effective date of these rules and regulations.

5.03. Instructions for Use of Tables - The percentages in the "Minimum" column are the minimum percentages which the Board must maintain in each type of investment instrument. For example, the 15% figure in Table I, Line 1, means that the Investment Pool invested in U. S. Government obligations. If the minimum percentage is "0", as in Table I, Line 2, the Board of Investments is not required to invest any moneys of the pool in instruments of that type.

The percentages in the "Maximum" column are the maximum percentages of the pool which may be maintained in each type

of instrument. For example, in Table I, Line 1, the 100% figure in the "Maximum" column means that the Board 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 Board of Investments is permitted to invest in instruments of that type up to a maximum of 10% of the pool.

In Table 1, the "Code Reference" column refers to the section of the West Virginia Code which authorizes 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. Government Agency Obligation	§12-6-9(b)	0%	85%
3.	Federally insured WV home mortgages	§12-6-9(d)	0%	10%
4.	Privately insured pools of WV home mortgages	§12-6-9(f)	0%	10%
5.	Corporate bonds, notes debentures, commercial paper and other evidence of indebtedness	§12-6-10(1) §12-6-9(g)	0%	75%
6.	Commercial paper and other corporate ob- ligations maturing in less than one year	§12-6-10(2) §12-6-9(g)	0%	20%
7.	Obligations of any single private corporation	§12-6-10(3)	0%	3%
8.	Fully collateralized WV certificates of deposit maturing in less than one year	§12-6-9(h)	0%	30%
9.	Repurchase agreements	§12-6-5(9)	0%	75%
10.	Reverse repurchase agreement	§12-6-5(10)	0%	15%
11.	Equity securities of Standard & Pools 500 Companies	§12-6-9(j)	0%	20%

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 rate "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 Board of Investment's discretion if such downgrading puts the debt instrument out of compliance with Table II.

Section 6. Miscellaneous

6.01. Minimum Amount of Investment - The minimum amount of investment in the Consolidated Pension Fund is One Thousand Dollars (\$1,000.00). There is no minimum time for which deposits will be retained.

6.02. Payment of Expenses from Earnings - The Board of Investments shall deduct expenses incurred in the administration of the Consolidated Pension Fund from the gross earnings of the fund monthly. Such fees shall be established by the Board on a pro rata basis.

6.03. Board Reports - The Board of Investments shall provide the Board a monthly report reflecting all purchases, sales, and trades for each pool, and also, a copy of the portfolio for each investment pool, reflecting the market value for each investment.

6.04. Authorized Financial Institutions and Brokers - The Board of Investments 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 Board of Investments shall provide the Board with a complete list of all financial institutions and brokerage firms currently on the approved list for their review.

6.05 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, or for which the Board's staff determine collection to be doubtful.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-6
Series II
(1990)

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Special Assistant

(Plus all the volunteer
help we can get)

January 15, 1991

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Board of Investments

RULE: New Rule, Series 2, Administration of the Consolidated
Pension Fund by the West Virginia Board of Investments

DATE FILED AS AN EMERGENCY RULE: January 3, 1991

DECISION NO. 7-91

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

Handwritten signature of Ken Hechler in cursive script.

KEN HECHLER
Secretary of State

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SECRETARY OF STATE

par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §12-6-5(5) reads:

(5) Promulgate and enforce bylaws and rules for the management and conduct of its affairs.

par. 9 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

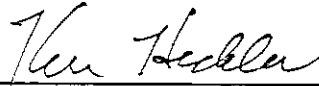
par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Board are as follows:

With the passage of S.B. 8 by the second special session of the 1990 Legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in 29A-3-15(g) . . ."immediate preservation of public peace, health, safety or welfare" and "to prevent substantial harm to public interest."

par. 14 This decision shall be cited as Emergency Rule Decision 7-91 or ERD 7-91 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the WV State Board of Investments, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE

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