

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #3

DO NOT MARK IN THIS BOX

FILED IN THE OFFICE OF  
THE SECRETARY OF STATE  
THIS DATE Nov 30, 1990  
ADMINISTRATIVE LAW DIVISION

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Board of Investments TITLE NUMBER: 113

CITE AUTHORITY 12-6-1 et seq WV Code

AMENDMENT TO AN EXISTING RULE: YES  NO

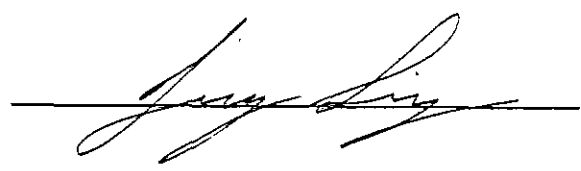
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

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

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: II (2)

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



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.

PUBLIC HEARING  
RULES AND REGULATION FOR  
THE BOARD OF INVESTMENTS  
AND THE STATE TREASURER'S OFFICE

A public hearing was held on November 29, 1990, at 9:30 a.m. in the State Capitol Complex Conference Center, Building 7, Room D.

Those present were:

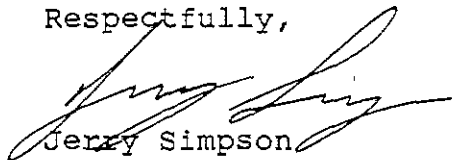
Jerry Simpson, State Treasurer's Office  
Mark Asaad, State Treasurer's Office  
Brenda Warren, State Treasurer's Office

Mr. Simpson called the meeting to order. Mr. Simpson made mention of the rules individually and received or made mention of any comments at that time.

There were no comments received except for the Selection of State Depositories for Disbursement Accounts through Competitive Bidding. There was a comment received from Bowles, Rice, McDavid, Graff & Love who are attorneys for the West Virginia Bankers Association and they made a recommendation as to a change in the method of compensation, Section 4.02, and this will be taken into appropriate consideration.

There being no comments from those present, the hearing was closed at 9:45 a.m.

Respectfully,



Jerry Simpson  
Assistant State Treasurer

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Administration of the Consolidated Pension Fund

Type of Rule:  Legislative  Interpretative  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 administered 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: 10/29/90

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_

DATE: November 30, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Board of Investments

LEGISLATIVE RULE TITLE: Administration of the Consolidated Pension fund by  
The W.Va. Board of Investments.

1. Authorizing statute(s) citation 12-6-1 et seq WV Code

2. a. Date filed in State Register with Notice of Hearing:  
Oct 30, 1990

b. What other notice, including advertising, did you  
give of the hearing?

None

c. Date of hearing (s): November 29, 1990

d. Attach list of persons who appeared at hearing, comments  
received, amendments, reasons for amendments.

Attached X No comments received X

e. Date you filed in State Register the agency approved  
proposed Legislative Rule following public hearing:  
(be exact)

November 30, 1990

f. Name and phone number of agency person to contact  
for additional information:

Jerry Simpson 343-4000

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: \_\_\_\_\_

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached \_\_\_\_\_

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 GNMA's. 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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