

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

Form #4

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1991 MAY 17 AM 10:06  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: West Virginia State Board of Investments TITLE NUMBER: \_\_\_\_\_

CITE AUTHORITY W. Va. Code Chapter 12-6-1 et seq

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO X

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

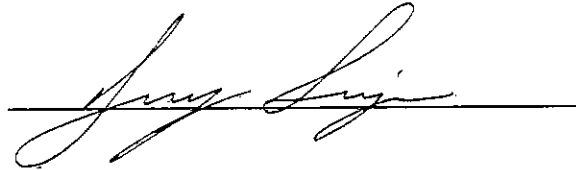
TITLE OF RULE BEING AMENDED: \_\_\_\_\_

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

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 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 West Virginia Code §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 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 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 or 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 contract with 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) The Consolidated Pension Fund shall maintain a reasonable balance between the various classes of fixed income securities, without over-concentration.

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

(5) 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 Subsection 5.01. The Board of Investments shall administer each investment pool in the Consolidated Pension Fund in accordance with these 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 Tables I and II of this Rule. 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 these 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 a minimum of fifteen percent of the Investment Pool shall be 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 staff shall provide Board members 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 staff may not do business with any financial institution or brokerage firm that has not been approved by Board members. At the first Board meeting of each fiscal year, the Board of Investments staff shall provide Board members 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

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WEST VIRGINIA LEGISLATURE  
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-152, State Capitol  
Charleston, West Virginia 25305  
(304) 340-3286

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Senator William R. Wooten, Co-Chairman  
Delegate David Grubb, Co-Chairman

Debra A. Graham, Counsel  
Michael McThomas, Associate Counsel  
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

April 15, 1991

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Jerry Simpson  
Chief Operations Officer  
Board of Investments  
State Capitol  
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Administration of the Consolidated Pension Fund by  
the West Virginia State Board of Investments

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: Craig Slaughter  
Mark Assad