

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #7

Do Not Mark In This Box  
Filing Date  
**FILED**  
AUG 3 1993  
WEST VIRGINIA  
SECRETARY OF STATE

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Effective Date  
July 22, 1993

NOTICE OF AN EMERGENCY RULE

AGENCY: BOARD OF INVESTMENTS TITLE NUMBER: 113

CITE AUTHORITY: CHAPTER 12-6-5

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED RULES FOR THE ADMINISTRATION OF  
THE CONSOLIDATED PENSION FUND.

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: \_\_\_\_\_


TITLE OF RULE BEING FILED AS AN EMERGENCY: \_\_\_\_\_

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

THE THIRD EXTRAORDINARY SESSION OF THE 1990 LEGISLATURE AUTHORIZED THE BOARD OF INVESTMENTS TO INVEST IN EQUITIES (CODE SECTION 12-6-9(J)). THE BOARD OF INVESTMENTS HAS SELECTED INVESTMENT ADVISORS AND IS NOW POSITIONED READY TO BEGIN EQUITY PURCHASES. THESE RULES CHARGES IMPLEMENT THE PROVISIONS OF THIS CODE SECTION.

Use Additional Sheets If Necessary.

  
Signature

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, 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 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.



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.

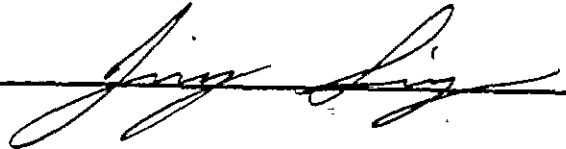
ALTHOUGH THERE ARE CURRENTLY NO LOCAL GOVERNMENT PENSION FUNDS INVESTED BY THE BOARD, THESE RULES WOULD INSURE THAT IS THIS WERE TO OCCUR AT SOME FUTURE DATE THESE FUNDS WOULD BE PROPERLY ACCOUNTED FOR.

C. Economic Impact on Citizens/Public at Large.

SEE 4A.

Date: 6/18/93

Signature of Agency Head or Authorized Representative



DATE: June 18, 1993

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia State Board of Investments

EMERGENCY RULE TITLE: Rules for the Administration of the  
Consolidated Pension Fund

1. Date of filing: June 18, 1993
2. Statutory authority for promulgating the emergency rule:  
Chapter 12-6-5
3. Date of filing of proposed legislative rule: June 18, 1993
4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?  
Amends current rules
5. Has the same or similar emergency rule previously been filed and expired?  
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare  
The third extraordinary session of the 1990 Legislature  
authorized the Board of Investments to invest in equities  
(Code section 12-6-9(j)). The Board of Investments has selected  
investment advisors and is now positioned to begin equity purchases.  
These rule changes implement the provisions of this code section.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

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8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

These rules only effect the participants in the consolidated  
pension fund.

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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.

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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-137-1990~~ May 17, 1991 and effective ~~April-137-1990~~ May 17, 1991.

## 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 or electronic 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 withdrawn, 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.~~ Each Participant shall own an undivided interest in the portfolio of the Consolidated Pension Fund based on the Participant's prorata contribution of assets at any time. Ownership shall be expressed in terms of units. Each Participant, by completing and returning an "Account Request Form" to the Board of Investments, 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 Board of Investments shall implement an accounting system based on generally-accepted accounting principals principles.

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

4.03.4:04: Distribution of Earnings; Monthly Statement - The Board of Investments shall furnish to each Participant a monthly statement. This statement shall include distributed of net earnings or losses, deposits, and withdrawals and changes in market value, if applicable, for each account. Monthly Participants will be periodically provided statements shall also include reflecting an accurate statement of the yield for the preceding month period for each individual investment pool in which the participant assets are invested.

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 or options 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.

(6) Not more than twenty percent of the portfolio of the Consolidated Pension Fund may be invested in equities listed on the Standard and Poor's 500.

(7) The Board shall rebalance the portfolio between fixed income securities and equities within two weeks following the end of each calendar quarter based on the percentage of fixed income securities and equities in the portfolio on the last day of each quarter. All calculations to determine the balance between the fixed income portfolio and equities portfolio shall be made with the securities being valued according to general accepted accounting principles.

(8) The Board and its advisors shall purchase and sell equities on a best execution basis.

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 the composite Consolidated Pension Fund meet 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 Consolidated Pension Fund 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 fund in instruments of that type.

The percentages in the "Maximum" column are the maximum percentages of the pool fund 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 fund 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 fund.

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 & Poors 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" or equivalent	0%	100%
2. Corporate bonds and notes rate "AA" or equivalent	0%	50%
3. Corporate bonds and notes rated "A" or equivalent	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 financial statements prepared in accordance with Generally Accepted Accounting Principles and financial schedules report reflecting all purchases, and sales, and-trades for each pool. and-aise,-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 for which the Boards staff request to transact business, currently-on-the-approved-list for their review and approval.

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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Board Members:

Honorable W. Gaston Caperton, III  
Governor/Chairman

Mr. John T. Poffenbarger  
Executive Secretary/Member

Honorable Larrie Bailey  
Treasurer/Member

Honorable Glen B. Gainer, III  
Auditor/Member

Mr. Dwight Keating  
Member

Mr. Richard Riederer  
Member

Mr. William T. Tracy  
Member



State of West Virginia  
**Board of Investments**

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Staff:

H. Craig Slaughter  
Executive Director

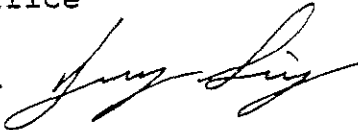
D. Jerry Simpson  
Chief Operating Officer

Matthew E. Jones  
Chief Financial Officer

Diana Will  
Chief Investment Officer

Mark E. N. Asaad  
General Counsel

To: Judy Cooper  
Secretary of State's Office

From: Jerry Simpson  
Chief Operating Officer 

Date: September 9, 1993

Subject: Withdrawal of Emergency Rule

On June 18, 1993, emergency rules were filed with your office. These rules were amended rules titled "Rules For The Administration Of The Consolidated Pension Fund". The primary purpose for these rules was to allow our office to proceed with investing in equities.

Since the filing of these rules on an emergency basis, the Attorney General's Office has issued an official opinion stating that it is unconstitutional for the Board of Investments (Board) to invest in equities. Therefore, the primary reason for filing the rules on an emergency basis is now void until the questions raised by the Attorney General's Office are resolved. The Board at their September 8, 1993 meeting directed the staff to withdraw the emergency filing of these rules and allow for the regular consideration of the rules by the Legislative Rule-Making Review Committee.

Therefore, I am requesting that your office withdraw the emergency filing of these rules.

If you need any additional information, please call me at 558-5000.

CC: Senator Joe Manchin III  
Delegate Brian Gallagher

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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FILED