

**WEST VIRGINIA**  
**SECRETARY OF STATE**

KEN HECHLER

**ADMINISTRATIVE LAW DIVISION**

Form #6

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FILED

1992 APR 14 AM 8:22

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: W. Va. Board of Investments TITLE NUMBER: \_\_\_\_\_

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: III

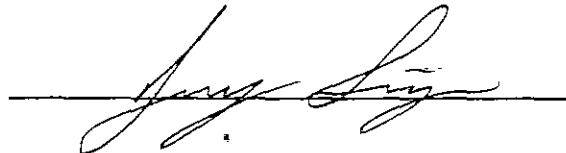
TITLE OF RULE BEING PROPOSED: Selection of State Depositories  
for Disbursement Account through Competitive Bidding.

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB-1

SECTION 64-7-3(h), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: April 14, 1992



3.00

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
West Virginia State Board of Investments

Chapter 12-1  
Series III

Subject: Selection of State Depositories for Disbursement  
Accounts Through Competitive Bidding.

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
West Virginia State Board of Investments

Chapter 12-1  
Series III  
(1979-Amendments 1990; Sections 2.01, 3.01,  
3.02, and 3.03)

Subject: Selection of State Depositories for Disbursement  
Accounts Through Competitive Bidding.

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Section 1. General.

1.01. Scope -- These rules implement the provisions of West Virginia Code §12-1-2, wherein the State Board of Investments is required to select depositories for disbursement accounts through competitive bidding by banks in this State.

1.02. Authority -- West Virginia Code §12-1-2.

1.03. General Purpose - The purpose of these rules is to carry out the legislative intent as stated in the above-cited code section, so that the competitive bidding required thereby will enable the State to obtain the most efficient service at the lowest possible cost.

1.04. Filing Date -

1.05. Effective Date -

1.06. Repeal of Former Rule - This Legislative Rule repeals and replaces West Virginia 113 CSR3 "Selection of State Depositories for Disbursement Accounts through Competitive Bidding" effective March 10, 1989.

## Section 2. Definitions

For purposes of these rules, unless a different meaning is clearly required by the context:

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

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

"Compensating balance" means the cash balance which the State will maintain with a depository to compensate the depository for its services;

"Disbursement account" means those accounts from which are paid moneys due from the State of West Virginia or any official, department, board, commission, political subdivision or agency thereof to any political subdivision, person, firm or corporation except moneys paid from investment accounts;

"Invitation to bid" means and includes requests for proposals, specifications, general information and other matter customarily included in the solicitation of bids;

## Section 3. Procedures for Bidding

3.01. Eligibility for Bidding - Only those banks that have been designated to serve as depositories for State funds are eligible to bid for a disbursement account.

3.02. Notice to Bidders - At least twenty-five (25) days prior to the date on which bids will be opened, the Board shall mail to every eligible depository notice that bids will be invited on one or more designated disbursement accounts.

Any bank interested in bidding on an account shall then make written request to the Board of Investments for copies of the formal invitation to bid, and the Board of Investments upon receipt of such request, shall transmit such copies, including all necessary specifications and forms, to such depository. The Board of Investments shall maintain a record noting the date of receipt of requests for formal invitations to bid and the date on which it mailed the invitations.

3.03. Contents of Invitations to Bid - The invitations shall state the time and place for submission of bids and shall include a description of the account and the service required, the approximate number of transactions or items to be processed monthly, the duration of contracts to be awarded, the designated account number of the accounts for which bids are being sought, and such other information as the Board considers necessary.

3.04. Submission of Bids - Bids shall be on forms provided by the Board of Investments and shall be submitted in duplicate in a sealed envelope addressed to the State Board of Investments. The envelope shall be conspicuously marked "Sealed Bid for Disbursement Account". The bidder shall also note on the envelope the account number as designated in the invitation to bid. Bidders may not commingle bids for more than one account in the same envelope. Immediately upon receipt of bids by the Board of Investments, the time of receipt shall be noted on the envelope and the sealed bids

shall be kept in the State Board of Investment's offices, together with all other bids, until the time set for the bid opening.

3.05. Bid Opening - On the date and time set for the bid opening, the bids shall be publicly opened and read aloud. The Board shall promptly analyze the bids and make awards as provided in Section 4 of these rules.

3.06. Conditions of Bidding - All bids shall be subject to the following conditions:

(a) Bids received after the date and time stated in the invitation may not be considered.

(b) Bids may not be considered unless signed by an authorized bank officer. For purposes of this section, an authorized bank officer may be either the president, a vice-president or the cashier.

(c) Prior to the bid opening, bids may be withdrawn after receipt in the Board's office upon written request made by an authorized bank officer. Such written request shall be made by telegram.

(d) The Board may reject any and all bids if such action is considered to be in the best interests of the State.

#### Section 4. Award and Compensation

4.01. Criteria for Award - Depending on the service to be performed, the Board will invite bids in terms of the price per transaction or per item processed. Accordingly, subject

to the Board's right to reject any and all bids, the contract will be awarded in each case to the bidder who submits the lowest responsible bid in terms of price per transaction or per item processed. The bid price will be the basis for the compensating balance as provided in the following Subsection 4.02.

4.02. Method of Compensation - Compensation to the depository for its services shall be made by means of either compensating balances computed by the Board on a monthly basis or by a State warrant. To determine the monthly compensating balances, the Board shall multiply the depository's bid price per transaction or per item processed, times the number of transactions or items processed during the preceding month (hereinafter called the "computation month"). The product thus obtained shall be converted to the compensating balance by using the average 90-day U. S. Treasury bill rate (bond equivalent yield) for the computation month. The average 90-day U. S. Treasury bill rate shall be the rate as computed by the Federal Reserve System. The following example will illustrate how the compensating balance will be computed and applied:

Under this example, it is assumed that:

- (1) The computation month is January;
- (2) The average 90-day U. S. Treasury bill rate for the computation month (January) was 5%;
- (3) The multiplier for annualization is 12;

- (4) The bid price per item was three cents (\$.03); and
- (5) The number of items processed in the computation month (January) was 50,000.

Accordingly, the compensating balance to be maintained in the bank during February is \$360,000, derived as follows:

$$\frac{50,000 \times ($.03) \times (12)}{.05} = \$360,000$$

If any overcompensation or undercompensation occurs during a given month, the compensating balance for the following month shall be appropriately adjusted in order to fairly compensate the depository for services rendered. A settlement will be made at the expiration of the contractual period if any overcompensation or undercompensation occurs. The Board and Bank shall agree upon a method of account settlement and include the account settlement as part of the negotiated contract for the Disbursement Account.

4.03. Compensation for Ancillary Services - The Board may in its bid specifications require the depository to furnish certain named ancillary services in the course of providing the basic service for which bids are solicited. For example, the Board may specify that a depository for disbursements shall furnish preprinted checks. The Board may also specify that the depository shall be compensated for the cost of furnishing such ancillary services on a flow-through basis. In such event, the Board shall increase the compensating balance in an amount sufficient to compensate the depository for the direct cost of furnishing such ancillary

services plus a reasonable amount (as determined by the Board) for the overhead attributable to furnishing such services. The amount to be allowed for such overhead shall be specified in the invitation to bid.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
West Virginia State Board of Investments

Chapter 12-1

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# STATE OF WEST VIRGINIA

## SECRETARY OF STATE

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

MAY 11 4 12 PM '93

FILED

TO: Jerry Simpson

AGENCY: Board of Investments

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 19, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 3 TITLE: 113 Board of Investments

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: CHIEF OPERATING OFFICER

DATE: 5/11/93

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

**TITLE 113  
LEGISLATIVE RULE  
BOARD OF INVESTMENTS**

**SERIES 3  
SELECTION OF STATE DEPOSITORIES FOR DISBURSEMENT  
ACCOUNTS THROUGH COMPETITIVE BIDDING.**

**§113-3-1. General.**

1.1. Scope. -- These rules implement the provisions of W. Va. Code §12-1-2, wherein the State Board of Investments is required to select depositories for disbursement accounts through competitive bidding by banks in this State.

1.2. Authority. -- W. Va. Code §12-1-2.

1.3. Filing Date. -- April 14, 1992

1.4. Effective Date. -- April 14, 1992

1.5. General Purpose. -- The purpose of these rules is to carry out the legislative intent as Stated in the above-cited code section, so that the competitive bidding required thereby will enable the State to obtain the most efficient service at the lowest possible cost.

**§113-3-2. Definitions.**

For purposes of these rules, unless a different meaning is clearly required by the context:

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

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

2.3. "Compensating balance" means the cash balance which the State will maintain with a depository to compensate the depository for its services;

2.4. "Disbursement account" means those accounts from which are paid moneys due from the State of West Virginia or any official, department, board, commission, political

subdivision or agency thereof to any political subdivision, person, firm or corporation except moneys paid from investment accounts;

2.5. "Invitation to bid" means and includes requests for proposals, specifications, general information and other matter customarily included in the solicitation of bids.

**§113-3-3. Procedures for Bidding**

3.1. Eligibility for Bidding - Only those banks that have been designated to serve as depositories for State funds are eligible to bid for a disbursement account.

3.2. Notice to Bidders - At least twenty-five (25) days prior to the date on which bids will be opened, the Board shall mail to every eligible depository notice that bids will be invited on one or more designated disbursement accounts. Any bank interested in bidding on an account shall then make written request to the Board of Investments for copies of the formal invitation to bid, and the Board of Investments upon receipt of such request, shall transmit such copies, including all necessary specifications and forms, to such depository. The Board of Investments shall maintain a record noting the date of receipt of requests for formal invitations to bid and the date on which it mailed the invitations.

3.3. Contents of Invitations to Bid - The invitations shall state the time and place for submission of bids and shall include a description of the account and the service required, the approximate number of transactions or items to be processed monthly, the duration of contracts to be awarded, the designated account number of the accounts for which bids are being sought, and such other information as the Board considers necessary.

3.4. Submission of Bids - Bids shall be on forms provided by the Board of Investments and shall be submitted in duplicate in a sealed envelope addressed to the State Board of Investments. The envelope shall be conspicuously marked "Sealed Bid for Disbursement Account". The bidder shall also note on the envelope the account number as designated in the invitation to bid. Bidders may not commingle bids for more than one account in the same envelope. Immediately upon receipt of bids by the Board of Investments, the time of receipt shall be noted on the envelope and the sealed bids shall be kept in the State Board of Investment's offices, together with all other bids, until the time set for the bid opening.

3.5. Bid Opening - On the date and time set for the bid opening, the bids shall be publicly opened and read aloud. The Board shall promptly analyze the bids and make awards as provided in Section 4 of these rules.

3.6. Conditions of Bidding - All bids shall be subject to the following conditions:

3.6.1. Bids received after the date and time stated in the invitation may not be considered.

3.6.2. Bids may not be considered unless signed by an authorized bank officer. For purposes of this section, an authorized bank officer may be either the president, a vice-president or the cashier.

3.6.3. Prior to the bid opening, bids may be withdrawn after receipt in the Board's office upon written request made by an authorized bank officer. Such written request shall be made by telegram.

3.6.4. The Board may reject any and all bids if such action is considered to be in the best interests of the State.

#### §113-3-4. Award and Compensation.

4.1. Criteria for Award - Depending on the service to be performed, the Board will invite bids in terms of the price per transaction or per

item processed. Accordingly, subject to the Board's right to reject any and all bids, the contract will be awarded in each case to the bidder who submits the lowest responsible bid in terms of price per transaction or per item processed. The bid price will be the basis for the compensating balance as provided in the following Subsection 4.2.

4.2. Method of Compensation - Compensation to the depository for its services shall be made by means of either compensating balances computed by the Board on a monthly basis or by a State warrant. To determine the monthly compensating balances, the Board shall multiply the depository's bid price per transaction or per item processed, times the number of transactions or items processed during the preceding month (hereinafter called the "computation month"). The product thus obtained shall be converted to the compensating balance by using the average 90-day U. S. Treasury bill rate (bond equivalent yield) for the computation month. The average 90-day U. S. Treasury bill rate shall be the rate as computed by the Federal Reserve System. The following example will illustrate how the compensating balance will be computed and applied:

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(3) The multiplier for annualization is 12;

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4.3. Compensation for Ancillary Services - The Board may in its bid specifications require the depository to furnish certain named ancillary services in the course of providing the basic service for which bids are solicited. For example, the Board may specify that a depository for disbursements shall furnish preprinted checks. The Board may also specify that the depository shall be compensated for the cost of furnishing such ancillary services on a flow-through basis. In such event, the Board shall increase the compensating balance in an amount sufficient to compensate the depository for the direct cost of furnishing such ancillary services plus a reasonable amount (as determined by the Board) for the overhead attributable to furnishing such services. The amount to be allowed for such overhead shall be specified in the invitation to bid.

Bill Investments, Disbursement 113-3

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H. B. 4300

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the  
Committee on Finance then the Judiciary)

10 A BILL to amend and reenact section three, article seven, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 state board of investments to promulgate legislative rules  
14 relating to the selection of state depositories for  
15 disbursement accounts through competitive bidding.

16 Be it enacted by the Legislature of West Virginia:

17 That section three, article seven, chapter sixty-four of the  
18 code of West Virginia, one thousand nine hundred thirty-one, as  
19 amended, be amended and reenacted, to read as follows:

20 ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE TO  
21 PROMULGATE LEGISLATIVE RULES.

22 §64-7-3. Board of investments.

23 (a) The legislative rules filed in the state register on the  
24 third day of January, one thousand nine hundred eighty-four,

1 relating to the state board of investments (selection of state  
2 depositories for disbursement accounts through competitive  
3 bidding), are authorized.

4 (b) The legislative rules filed in the state register on the  
5 third day of January, one thousand nine hundred eighty-four,  
6 relating to the state board of investments (administration of the  
7 consolidated fund), are authorized.

8 (c) The legislative rules filed in the state register on the  
9 ninth day of January, one thousand nine hundred ninety, modified  
10 by the state board of investments to meet the objections of the  
11 legislative rule-making review committee and refiled in the state  
12 register on the twenty-fourth day of January, one thousand nine  
13 hundred ninety, relating to the state board of investments  
14 (administration of the consolidated fund), are authorized.

15 (d) The legislative rules filed in the state register on the  
16 ninth day of January, one thousand nine hundred ninety, modified  
17 by the state board of investments to meet the objections of the  
18 legislative rule-making review committee and refiled in the state  
19 register on the twenty-fourth day of January, one thousand nine  
20 hundred ninety, relating to the state board of investments  
21 (administration of the consolidated pension fund), are  
22 authorized.

23 (e) The legislative rules filed in the state register on the  
24 thirtieth day of November, one thousand nine hundred ninety,  
25 modified by the state board of investments to meet the objections

1 of the legislative rule-making review committee and refiled in  
2 the state register on the seventeenth day of May, one thousand  
3 nine hundred ninety-one, relating to the state board of  
4 investments (selection of state depositories for disbursement  
5 accounts through competitive bidding), are authorized.

6 NOTE: The purpose of this bill is to authorize the State  
7 Board of Investments to promulgate legislative rules relating to  
8 the selection of state depositories for disbursement accounts  
9 through competitive bidding.

10  
11 ~~.....~~ Strike-throughs indicate language that would be stricken from  
12 the present law, and underscoring indicates new language that  
13 would be added.