

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: _____

CITE AUTHORITY 12-1-2 et seq WV Code

AMENDMENT TO AN EXISTING RULE: YES _____ NO

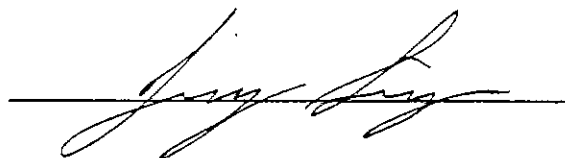
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: IV (4)

TITLE OF RULE BEING PROPOSED: Selection of State Depositories for
Receipt Accounts.

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.



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:

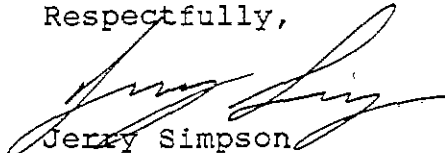
Jerry Simpson, State Treasurer's Office
Mark Asaad, State Treasurer's Office
Brenda Warren, State Treasurer's Office

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: Selection of State Depositories for Receipt Accounts

Type of Rule: X Legislative Interpretive Procedural

Agency Board of Investments Address
State Capitol - Charleston, WV 25305

N/A

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					

2. Explanation of above estimates:

These rules repeals and replaces the original rules filed in 1981. 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 proposed rules is to aid in the implementation of the Legislative finding and purpose set forth in Section Two, Article One, Chapter Twelve of the Code, wherein the Board is required to select depositories for receipt accounts.

4. **Explanation of Overall Economic Impact of Proposed Rule.**

A. **Economic Impact on State Government.**

These proposed rules will continue to allow the Board to provide depositories for the deposit of state funds by all state agencies regardless of their location in an efficient and cost effective manner.

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

N/A

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: Selection of State Depositories for
Receipt Accounts.

1. Authorizing statute(s) citation 12-1-2 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 _____

The general purpose of these proposed rules is to aid in the implementation of the Legislative finding and purpose set forth in Section Two, Article One, Chapter Twelve of the Code, wherein the Board is required to select depositories for receipt accounts.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-1
Series IV

Subject: Selection of State Depositories for Receipt Accounts

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-1
Series IV

Subject: Selection of State Depositories for Receipt Accounts

Section 1. General.

1.01. Scope - These rules implement the provisions of section two, article one, chapter twelve of the code of West Virginia, 1931, as amended, wherein the State Board of Investments is required to select depositories for receipt accounts.

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-mentioned code section, so that the selection of receipt depositories 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 CSR 4 "Selection of State Depositories for Receipt Accounts" effective July 8, 1981.

Section 2. Definitions.

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

"Agency" means and includes any department, board, commission, division, branch office or other separate unit of a state agency, and any officer or employee thereof, who or which collects moneys due the State;

"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; and

"Receipt accounts" means those accounts in which are deposited moneys belonging to or due the State of West Virginia or any official, department, board, commission or agency, thereof.

Section 3. Selection of Depositories for Receipt Accounts.

The Board recognizes that not only the services but the location of receipts depositories are of major concern to the agencies whose collections are to be deposited. Accordingly, the Board in cooperation with the affected agencies shall ensure that receipts depositories are conveniently located for the agencies and are able to serve their needs.

Section 4. Procedures.

Each collecting agency shall notify the Board of its anticipated collections and deposits including the extent of activity of its accounts, size of accounts, frequency of deposits, special services that may be needed and other information requested by the Board. The agency also may submit its preferred choice or a list of preferred choices of banks. If the agency submits such preferred choice or list, it shall submit therewith a statement of the reasons for its preference. However, the Board is not bound to select the bank or banks preferred by the agency. The Board shall review the information submitted by the agency and shall consider:

- 1) The activity of the various accounts;
- 2) The reasonable value of the banking services to be rendered;
- 3) The value and importance of such deposits to the economy of the communities and the various areas of the State affected; and
- 4) The recommended depository's proposed fee schedule as required by Section 5.01 of these rules.

Section 5. Compensation.

5.01. Method of Compensation - Compensation to the depository for its services shall be made by means of either of the following three methods:

1) A compensating balance computed by the Board on a monthly basis using the average collected balance. The depository shall submit proposed fee schedules for types of services rendered by the depository, including but not limited to services such as wire transfers, checks cashed, returned checks, and cash handling. The proposed fee schedules shall be subject to review and approval by the Board. If the fee schedules are approved by the Board, a contract shall be entered into with the depository for the furnishing of the required services. If the fee schedules are not approved by the Board, the Board may negotiate satisfactory revised fee schedules with the depository or select another depository. The monthly total fee for the services rendered shall be converted to a compensating balance by using the average 90-day U. S. Treasury bill rate (bond equivalent yield).

The following example will illustrate how the compensating balance will be computed and applied:

- 1) Assume that the average 90-day U. S. Treasury bill rate for the affected month is .10;
- 2) The multiplier for annualization is twelve; and the fee for the services, if rendered on a fee basis, would equal \$560.00 for the affected month.

Accordingly, the compensating balance to be maintained for the next month is \$67,200 derived as follows:

$$\frac{(560) \times 12}{.10} = \$67,200$$

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.

2) A compensating balance derived by accumulated receipts in the receipts account and periodically transferring such balance to a central depository designated by the Board. This method of compensation would be used for depositories whose receipts would not be sufficient volume to justify use of the method in subdivision (1) of this section.

Upon Board approval, a contract shall be entered into with the depository for the furnishing of required services.

3) The Board may authorize the bank to invoice the Board. In such case, the Board will pay the invoice with a State warrant.

5.02. Compensation for Ancillary Services - The Board may, from time to time, require the depository to furnish certain ancillary services in the course of providing the basic service for which it was selected. For example, the Board may specify that a depository for receipts shall furnish analytical reports. The Board may also specify that the depository shall be compensated for the cost of furnishing services on a flow-through basis. In such event, the bank shall be compensated for such service by one of the three methods described in section 5.01.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-1

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