

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

Form #7

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AN EMERGENCY RULE**

AGENCY: Board of Investments/Treasurer's Office TITLE NUMBER: 113

CITE AUTHORITY: 12-2-2 et seq WV Code

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

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

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

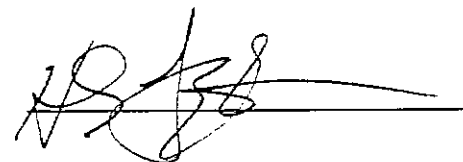
IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: V

TITLE OF RULE BEING FILED AS AN EMERGENCY: Procedures for Deposit  
of Moneys with the Board of Investments and Treasurer's Office by  
State Agencies.

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Use Additional Sheets If Necessary.



3.60

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedures for Deposit of Moneys with the Board of Investments and Treasurer's Office by State Agencies.

Type of Rule: X Legislative          Interpretive          Procedural

Agency: Board of Investments/Treasurer's Office  
State Capitol - 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 proposed 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 Two, Chapter Twelve of the Code, wherein the Board and Treasurer are required to establish a system whereby moneys received by State agencies, officials and employees on behalf of the State shall be deposited with the Board within twenty-four hours of receipt, immediately and properly accounted for and immediately available for investment by the State.

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 collect and invest funds on a timely basis in order to more accurately account for funds due the State and also maximize interest income.

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

N/A

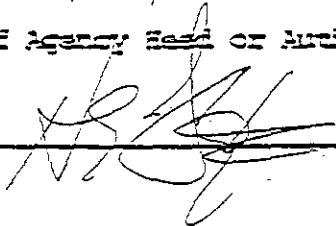
C. Economic Impact on Citizens/Public at Large.

See 4A.

Date: \_\_\_\_\_

10/29/90

Signature of Agency Head or Authorized Representative



DATE: January 22, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia State Board of Investments

EMERGENCY RULE TITLE: Procedures for Processing Payments from State Treasury

1. Date of filing: January 22, 1991

2. Statutory authority for promulgating the emergency rule: W. Va. Code Chapter 12-2-2 et seq

3. Date of filing of proposed legislative rule: 11-30-90

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

Adopts new language.

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.

With the passage of SB-8 by the second special session of the 1990 legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.

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.

Due to the second special session of the 1990 legislature, the Board of Investments was required to hire its own staff and all investment activity and cash management was transferred from the Treasurer's

Office to the Board of Investments. In order to implement these

legislative changes which effect the immediate cash flow of the State and the investment of the State's Moneys, these rules must be promulgated on an emergency basis. Otherwise, the State will be without available funds to pay bills or investment.

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 Two, Chapter Twelve of the Code, wherein the Board and Treasurer are required to establish a system whereby moneys received by State agencies, officials and employees on behalf of the State shall be deposited with the Board within twenty-four hours of receipt, immediately and properly accounted for and immediately available for investment by the State.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
West Virginia State Board of Investments  
State Treasurer's Office

Chapter 12-2  
Series V

Subject: Procedures for Deposit of Moneys with the Board of  
Investments and Treasurer's Office by State  
Agencies.

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
West Virginia State Board of Investments  
State Treasurer's Office

Chapter 12-2  
Series V

Subject: Procedure for Deposit of Moneys with West Virginia  
Board of Investments by State Agencies.

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Section 1. General

1.01. Scope - These rules implement the provisions of section two, article two, chapter twelve of the code of West Virginia, 1931, as amended.

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

1.03. Purpose - The general purpose of these rules is to establish a system whereby moneys received by State agencies, officials and employees on behalf of the State of West Virginia shall be 1) deposited with the Board of Investments within twenty-four hours of receipt, 2) immediately and properly accounted for, and 3) immediately available for investment by the State. This purpose is in keeping with the legislative findings and purpose set forth in section one, article one, chapter twelve of the code, wherein the State Board of Investments 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 also are specifically directed toward implementing the Legislature's intent in section two,

article one, chapter twelve of the code wherein State officers and employees are prohibited from making or causing deposits of State moneys to be made in any bank not designated as an authorized depository by the State Board of Investments.

1.04. Filing Date -

1.05. Effective Date -

1.06. Repeal of Former Rule - This Legislative Rule repeals and replaces West Virginia 112 CSR1 "Procedures for Deposit of Funds in the Treasurer's Office by State Agencies" effective July 8, 1981.

## Section 2. Definitions

For purposes of these rules, unless a different meaning clearly is 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;

"Centralized Receipts Processing Center" (CRPC) means a central location operated by the Board for receiving, processing and depositing all funds due the State.

"Check" includes a bank draft, bank wire, money order, cashier's check, check written on the payor's checking account, and any other non-cash payment of funds due the State;

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

"Fund" means demand deposit account balances the Board has use of;

"Lock Box" means a cash management system whereby moneys due a State agency are mailed to a post office box near the "CRPC". The CRPC collects the receipts from the lock box and processes both the receipt document and the check;

"Receipt Account" means an account in which moneys are deposited belonging to or due the State of West Virginia or any official, department, board, commission, or agency, thereof; and

"Treasurer" means the Treasurer of the State of West Virginia.

### Section 3. Procedures for Deposits

3.01. Receipts Depositories - State depositories for receipt accounts shall be established by the Board pursuant to the provisions of section two, article one, chapter twelve of the Code and rules promulgated thereunder. A collecting agency shall deposit its collections in a depository designated by the Board to serve as a depository for that agency's receipt accounts.

3.02. Methods for Depositing Funds Due the State -

(a) Checks - An agency shall deposit its check collections by any one or more of the following methods:

(1) The agency's own employees may take the checks directly to the designated receipt depository;

(2) The agency may use the services of a courier or armored car service engaged by the agency to pick up deposits and deliver them to the designated depository;

(3) The agency may use the services of a courier engaged by the Board to pick up deposits from such agency and deliver them to such designated depository; or

(4) The agency may use any other method approved in writing by the Board.

(5) The Board may provide a lock box at the Board's centralized receipts processing center for direct processing of an agencies receipts.

(b) Cash - An agency shall deposit its cash collections by any one or more of the methods authorized for deposit of checks by the Board. In addition, an agency may use the safekeeping services of a night depository at any bank of the agency's choice.

3.03. Bank Deposit Forms - The collecting agency shall make its deposits using a form which shall be prescribed by the Board. The form shall be signed by an officer of the agency.

3.04. Board of Investment's Deposit Forms - Immediately upon making a deposit, the agency shall complete and transmit to the Board a form which shall be prescribed by the Board.

3.05. Processing Deposit Forms - The Board shall prescribe the method by which all deposit forms shall be processed.

3.06. Deposit of Funds with the State Treasurer - The Board shall transfer daily all funds from the Board's receipt accounts to the Treasurer's receipt account. The Board shall daily provide the Treasurer a report of general ledger deposits on such forms as prescribed by the Board.

3.07. Redeposit of State Checks - When an agency redeposits State checks, such deposits shall be made either at the designated depository or directly to the Board's office. If made at the designated depository, the procedure shall be the same as with any other deposit. Redeposits, when made directly to the Board's office, shall be made on forms prescribed by the Board to the Board's office together with the checks being redeposited. No other checks shall be entered on the Board's form or commingled with the redeposit of State checks.

3.08. Endorsement of Deposited Checks - Except for redeposits of State checks, all checks received and deposited by agencies shall be endorsed as in the following example:

STATE OF WEST VIRGINIA  
(AGENCY'S NAME)  
FOR DEPOSIT ONLY  
PAY TO THE ORDER OF  
ANY BANK OR BANKER  
NO PROTEST

When a State check is redeposited, the check shall be endorsed as in the following example:

JOHN DOE  
ABSENCE OF ENDORSEMENT  
GUARANTEED. REDEPOSIT TO  
ACCOUNT NO. 1600-00-009-01  
(REGULAR ENDORSEMENT STAMP  
AS SHOWN ABOVE)

3.09. Adjustments and Returned Checks - Whenever debit or credit tickets for adjustments to a previous deposit for returned checks are received by an agency from a depository, the agency shall use the Board prescribed Deposit Form to record the totals of such debits or credits. When the bank deposit form is used for the entry of adjustments or returned checks it shall be signed by an authorized officer or employee of the agency.

3.10. Frequency of Deposits - The collecting agency shall deposit all receipts daily in the designated depository. No agency may make more than two deposits per day unless prior approval to exceed that number is obtained from the Board.

3.11. Clearing Accounts - The requirements of section §3.10 shall apply to every agency, notwithstanding that at the time of making the deposit the agency may not know the exact general ledger account for preparation of the Board's Deposit Form. In the latter event, the agency shall obtain approval from the State Auditor to use a general ledger clearing account, and such agency shall record its deposits in such general ledger clearing account. When the agency thereafter determines the exact general ledger accounts applicable to the funds deposited in the general ledger clearing account, it shall prepare a Board prescribed "Deposit Collection Transfer Form" and transfer the funds from the general ledger clearing account to the appropriate general ledger receipt accounts. All copies of said form shall promptly be sent to the Board.

3.12. Applicability of These Rules - It is presumed that all moneys collected or held by State agencies in the form of cash, undeposited checks, bank accounts, or in any other form, are public moneys subject to the requirements of section two, article two, chapter twelve of the code and of these rules. In the event any agency believes that all or part of these rules may not apply to its operations and collections, or that all or part of the moneys held by it may not be governed by these rules, it shall submit to the Board a written statement of the reasons for such belief. The agency shall also furnish an itemization and accounting of the moneys in question

currently held by it, with the name of the bank, bank account number, and the name and purpose of the account.

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## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Charleston 25305

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Director, Administrative Law

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Director, Corporations

SHEREE COHEN  
Special Assistant

(Plus all the volunteer  
help we can get)

DECISION

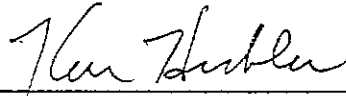
EMERGENCY RULE DECISION  
(ERD 14-91)

AGENCY: Board of Investments/Treasurer's Office  
RULE: Amendments, Series 5, Procedures for Deposit of Moneys  
with the Board of Investments & Treasurer's Office by  
State Agencies

FILED AS AN EMERGENCY RULE: January 22, 1991

- par. 1 The WV Board of Investments (Board) has filed the above new rule as an emergency.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Board has filed this emergency rule with supporting documents with the Secretary of State on January 22, 1991, and with the LRMRC on January 22, 1991.

par. 14 This decision shall be cited as Emergency Rule Decision 14-91 or ERD 14-91 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the WV State Board of Investments, the Attorney General and the Legislative Rule Making Review Committee.



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KEN HECHLER  
SECRETARY OF STATE

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WEST VIRGINIA

par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §12-2-2 reads in part:

*The state board of investments shall have authority to establish an imprest fund or funds in the office of any state agency or institution making proper application to the board. To implement this authority the board shall promulgate rules and regulations, in accordance with the provisions of §29A-1-1 et seq. of this code.*

par. 9 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

*(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.*

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Board are as follows:

With the passage of S.B. 8 by the second special session of the 1990 Legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in 29A-3-15(g) . . . "immediate preservation of public peace, health, safety or welfare" and "to prevent substantial harm to public interest."

KEN HECHLER  
Secretary of State

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(Plus all the volunteer  
help we can get)

March 1, 1991

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

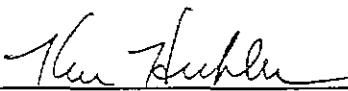
AGENCY: Board of Investments/Treasurer's Office

RULE: New Rule, Series 5, Procedures for Deposit of Moneys  
with the Board of Investments and Treasurer's Office  
by State Agencies

DATE FILED AS AN EMERGENCY RULE: January 22, 1991

DECISION NO. 14-91

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

  
KEN HECHLER  
Secretary of State

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OFFICE OF THE SECRETARY OF STATE