

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 297**

BY SENATORS WOODRUM, PLYMALE, AND HAMILTON

[Originating in the Committee on Finance; reported on

March 12, 2021]



1 A BILL to amend and reenact §12-6C-4 and §12-6C-9 of the Code of West Virginia, 1931, as  
2 amended, all relating generally to the Board of Treasury Investments; authorizing the  
3 board to provide compensation to appointed directors for each meeting attended and  
4 establishing the rate thereof; authorizing the board to invest in commercial paper with a  
5 certain nationally recognized rating and weighted maturity; providing a minimum weighted  
6 average maturity duration for corporate debt rated investment grade in which the board is  
7 authorized to invest; authorizing the board to invest in state and local government  
8 securities with certain nationally recognized ratings; removing the limitation on the  
9 percentage of the Consolidated Fund that the board may invest in certain corporate  
10 securities; and eliminating the requirement that the board invest a certain percentage of  
11 the Consolidated Fund in obligations guaranteed by the United States.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 6C. WEST VIRGINIA BOARD OF TREASURY INVESTMENTS.**

**§12-6C-4. West Virginia Board of Treasury Investments created; body corporate; board; directors; nomination and appointment of directors, qualifications and terms of appointment, advice and consent; annual and other meetings; committees; board approval of investment policies required; open meetings, qualifications.**

1 (a) The West Virginia Board of Treasury Investments is created as a public body corporate  
2 and established to provide prudent fiscal administration, investment, and management for the  
3 Consolidated Fund.

4 (b) Any appointment to the board is effective immediately upon appointment by the  
5 Governor with respect to voting, constituting a quorum, receiving expenses, and all other rights  
6 and privileges of the director position. A trustee of the West Virginia Investment Management  
7 Board other than the Governor, State Treasurer, or State Auditor is not eligible to serve as a  
8 director of the board.

9 (c) The board shall consist of five ~~members~~ directors, as follows:

10 (1) The Governor, the State Treasurer, and the State Auditor or their designees. They  
11 shall serve by virtue of their offices and are not entitled to compensation under the provisions of  
12 this article. The Governor, State Treasurer, and State Auditor or their designees are subject to all  
13 duties, responsibilities, and requirements of the provisions of this article; and

14 (2) Two persons appointed by the Governor subject to the advice and consent of the  
15 Senate.

16 (d) Of the two ~~persons~~ directors appointed by the Governor, one shall be a certified public  
17 accountant with experience in finance, investing, and management, and one shall be an attorney  
18 with experience in finance, investing, and management.

19 (e)(1) Initial appointment of the appointed directors shall be for the following terms:

20 (A) One ~~member~~ director shall be appointed for a term ending June 30, 2007; and

21 (B) One ~~member~~ director shall be appointed for a term ending June 30, 2009.

22 (2) Except for appointments to fill vacancies, each subsequent appointment shall be for  
23 the term ending June 30th of the fourth year following the year the preceding term expired. A  
24 director may be reappointed. In the event a vacancy occurs it shall be filled by appointment for  
25 the unexpired term. A director whose term has expired shall continue in office until a successor  
26 has been duly appointed and qualified. No appointed ~~member~~ director of the board may be  
27 removed from office by the Governor except for official misconduct, incompetency, neglect of  
28 duty, gross negligence, misfeasance, or gross immorality.

29 (f) All directors shall receive reasonable and necessary expenses actually incurred in  
30 discharging director's duties pursuant to this article. The board is authorized to compensate the  
31 two directors appointed by the Governor pursuant to subdivision (2), subsection (c) of this section,  
32 in an amount of up to \$500 for each board meeting that the directors attend in person.

33 (g) The board shall hold quarterly meetings. Board bylaws may provide for calling and  
34 holding additional meetings. Representatives of participants and members of the public may  
35 attend any meeting held by the board, except during those meetings or part of meetings closed

36 by the board as permitted by law. Attendees shall observe standards of decorum established by  
37 board policy.

38 (h) The board shall annually adopt a fee schedule and a budget reflecting fee structures  
39 for the year.

40 (i) The board chair may appoint committees as needed, including, but not limited to, an  
41 investment policies committee to discuss drafting, reviewing, or modifying written investment  
42 policies. Each committee shall seek input from participants before reporting its recommendations  
43 to the board. The board may meet with any or all committees during any of its meetings.

44 (j) Any meeting of the board may be closed upon adoption of a motion by any director  
45 when necessary to preserve the attorney-client privilege, to protect the privacy interests of  
46 individuals, to review personnel matters, or to maintain confidentiality when confidentiality is in  
47 the best interest of the participants.

**§12-6C-9. Asset allocation; investment policies, authorized investments; restrictions.**

1 (a) The board shall develop, adopt, review, or modify an asset allocation plan for the  
2 Consolidated Fund at each annual board meeting.

3 (b) The board shall adopt, review, modify, or cancel the investment policy of each fund or  
4 pool created at each annual board meeting. For each participant directed account authorized by  
5 the State Treasurer, staff of the board shall develop an investment policy for the account and  
6 create the requested account. The board shall review all existing participant directed accounts  
7 and investment policies at its annual meeting for modification.

8 (c) The board shall consider the following when adopting, reviewing, modifying, or  
9 canceling investment policies:

10 (1) Preservation of capital;

11 (2) Risk tolerance;

12 (3) Credit standards;

13 (4) Diversification;

- 14 (5) Rate of return;
- 15 (6) Stability and turnover;
- 16 (7) Liquidity;
- 17 (8) Reasonable costs and fees;
- 18 (9) Permissible investments;
- 19 (10) Maturity ranges;
- 20 (11) Internal controls;
- 21 (12) Safekeeping and custody;
- 22 (13) Valuation methodologies;
- 23 (14) Calculation of earnings and yields;
- 24 (15) Performance benchmarks and evaluation; and
- 25 (16) Reporting.

26 (d) No security may be purchased by the board unless the type of security is on a list  
27 approved at a board meeting. The board shall review the list at its annual meeting.

28 (e) Notwithstanding the restrictions which are otherwise provided by law with respect to  
29 the investment of funds, the board and all participants, now and in the future, may invest funds in  
30 these securities:

31 (1) Obligations of, or obligations that are insured as to principal and interest by, the United  
32 States of America or any agency or corporation thereof and obligations and securities of the  
33 United States sponsored enterprises, including, without limitation:

- 34 (i) United States Treasury;
- 35 (ii) Export-Import Bank of the United States;
- 36 (iii) Farmers Home Administration;
- 37 (iv) Federal Farm Credit Banks;
- 38 (v) Federal Home Loan Banks;
- 39 (vi) Federal Home Loan Mortgage Corporation;

- 40 (vii) Federal Land Banks;
- 41 (viii) Government National Mortgage Association;
- 42 (ix) Merchant Marine bonds; and
- 43 (x) Tennessee Valley Authority Obligations;
- 44 (2) Obligations of the Federal National Mortgage Association;
- 45 (3) Commercial paper with ~~one of the two highest commercial paper credit ratings~~ a rating
- 46 of A-1 or better as determined by a nationally recognized statistical rating organization;
- 47 (4) For pools with a weighted average maturity or duration not to exceed three years,
- 48 commercial paper with an A-2 rating or better as determined by a nationally recognized statistical
- 49 rating organization;
- 50 ~~(4) (5) Corporate debt rated in one of the six highest rating categories~~ with an A rating or
- 51 better as determined by a nationally recognized statistical rating organization;
- 52 ~~(5) (6) For pools with a weighted average maturity or duration not to exceed three years,~~
- 53 ~~Corporate~~ corporate debt ~~rated investment grade~~ with a BBB- rating or better as determined by a
- 54 nationally recognized statistical rating organization ~~for pools with a weighted average maturity or~~
- 55 ~~duration of at least 366 days;~~
- 56 ~~(6) (7) State and local government, or any instrumentality or agency thereof, securities~~
- 57 ~~with one of the three highest ratings~~ a weighted average maturity or duration not to exceed three
- 58 years and an A rating or better as determined by a nationally recognized statistical rating
- 59 organization;
- 60 ~~(7) (8) Repurchase agreements involving the purchase of United States Treasury~~
- 61 securities and repurchase agreements fully collateralized by obligations of the United States
- 62 government or its agencies or instrumentalities;
- 63 ~~(8) (9) Reverse repurchase agreements involving the purchase of United States Treasury~~
- 64 securities and reverse repurchase agreements fully collateralized by obligations of the United
- 65 States government or its agencies or instrumentalities;

66           ~~(9)~~ (10) Asset-backed securities rated in the highest category AAA or better as determined  
67 by a nationally recognized statistical rating organization;

68           ~~(10)~~ (11) Certificates of deposit;

69           ~~(11)~~ (12) Money market and other fixed income funds; and

70           ~~(12)~~ (13) Investments in accordance with the Linked Deposit Program, a program using  
71 financial institutions in West Virginia to obtain certificates of deposit, loans approved by the  
72 Legislature, and any other programs authorized by the Legislature.

73           (f) In addition to the restrictions and conditions contained in this section, at no time shall  
74 more than five percent of the Consolidated Fund be invested in securities issued by a single  
75 private corporation or association.

76           ~~(1) At no time shall more than seventy five percent of the Consolidated Fund be invested~~  
77 ~~in any bond, note, debenture, commercial paper or other evidence of indebtedness of any private~~  
78 ~~corporation or association;~~

79           ~~(2) At no time shall more than five percent of the Consolidated Fund be invested in~~  
80 ~~securities issued by a single private corporation or association; and~~

81           ~~(3) At no time shall less than fifteen percent of the Consolidated Fund be invested in any~~  
82 ~~direct obligation of or obligation guaranteed as to the payment of both principal and interest by~~  
83 ~~the United States of America~~

84           (g) Securities purchased in compliance with this article that become noncompliant may be  
85 retained upon recommendation of the investment manager of the security and the board  
86 investment consultant.