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H. B. 2815

(By Delegates Pasdon, Statler, Duke, Reynolds, Sobonya,
Ellington, Rohrbach, Fleischauer, Miller, Morgan and Kurcaba)

[Introduced February 19, 2015; referred to the
Committee on Education then Finance.]

A BILL to amend and reenact §12-1-12d of the Code of West Virginia, 1931, as amended, relating to authorizing certain state institutions of higher education to invest unlimited funds with their respective nonprofit foundations.

Be it enacted by the Legislature of West Virginia:

That §12-1-12d of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-12d. Investments by Marshall University, ~~and~~ West Virginia University and Osteopathic School of Medicine.

(a) Notwithstanding any provision of this article to the contrary, the governing boards of Marshall University, West Virginia University and West Virginia School of Osteopathic Medicine each may invest certain funds with its respective nonprofit foundation that has been established to receive contributions exclusively for that university and which exists on January 1, 2005. The investment is subject to the limitations of this section.

1 (b) A governing board, through its chief financial officer, may enter into agreements,
2 approved as to form by the State Treasurer, for the investment by its foundation of certain funds
3 subject to their administration. Any interest or earnings on the moneys invested is retained by the
4 investing university.

5 (c) Moneys of a university that may be invested with its foundation pursuant to this section
6 are those subject to the administrative control of the university ~~that are collected under an act of the~~
7 ~~Legislature for specific purposes and that~~ do not include any funds made available to the university
8 from the State General Revenue Fund or the funds established in section eighteen or eighteen-a,
9 article twenty-two, chapter twenty-nine of this code. Moneys permitted to be invested under this
10 section may be aggregated in an investment fund for investment purposes.

11 ~~(d) Of the moneys authorized for investment by this section, Marshall University, West~~
12 ~~Virginia School of Osteopathic Medicine and West Virginia University each, respectively, may~~
13 ~~have invested with its foundation at any time not more than the greater of: (1) Sixty million dollars~~
14 ~~for Marshall University, \$25 million for West Virginia School of Osteopathic Medicine and \$70~~
15 ~~million for West Virginia University; or (2) Sixty-five percent of its unrestricted net assets as~~
16 ~~presented in the statement of net assets for the fiscal year end audited financial reports.~~

17 (e) Investments by foundations that are authorized under this section shall be made in
18 accordance with and subject to the provisions of the Uniform Prudent Investor Act, codified as
19 article six-c, chapter forty-four of this code. As part of its fiduciary responsibilities, each governing
20 board shall establish investment policies in accordance with the Uniform Prudent Investor Act for
21 those moneys invested with its foundation. The governing board shall review, establish and modify,
22 if necessary, the investment objectives as incorporated in its investment policies so as to provide for

1 the financial security of the moneys invested with its foundation. The governing boards shall give
2 consideration to the following:

3 (1) Preservation of capital;

4 (2) Diversification;

5 (3) Risk tolerance;

6 (4) Rate of return;

7 (5) Stability;

8 (6) Turnover;

9 (7) Liquidity; and

10 (8) Reasonable cost of fees.

11 ~~(f)~~ (e) A governing board shall report annually by December 31, to the Governor and to the
12 Joint Committee on Government and Finance on the performance of investments managed by its
13 foundation pursuant to this section.

14 ~~(g)~~ (f) The amendments to this section in the second extraordinary session of the Legislature
15 in 2010 apply retroactively so that the authority granted by this section shall be construed as if that
16 authority did not expire on July 1, 2010.

NOTE: The purpose of this bill is to provide West Virginia University, Marshall University,
and the Osteopathic School of Medicine with more authority to invest assets of the respective
institutions.

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