

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Originating**

### **Senate Bill 628**

BY SENATORS MARONEY, MAYNARD, ARVON, BALDWIN,

CLINE, DRENNAN, AND SWOPE

[Originating in the Committee on Economic

Development; Reported on February 22, 2018]

1 A BILL to amend and reenact §12-7-6 of the Code of West Virginia, 1931, as amended, relating  
2 generally to the West Virginia Jobs Investment Trust Board; expanding the corporate  
3 powers of the board to allow it to enter into partnerships and create subsidiaries of different  
4 forms of either a nonprofit or for-profit form; and authorizing the board to take any lawful  
5 actions necessary to be certified without limitation as a qualified community development  
6 entity or a qualified community development financial institution under applicable federal  
7 law.

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

**ARTICLE 7. JOBS INVESTMENT TRUST FUND.**

**§12-7-6. Corporate powers.**

1 The board may:

2 (1)(i) Make loans to eligible businesses with or without interest secured if and as required  
3 by the board; and (ii) acquire ownership interests in eligible businesses. These investments may  
4 be made in eligible businesses that stimulate economic growth and provide or retain jobs in this  
5 state and shall be made only upon the determination by the board that the investments are  
6 prudent and meet the criteria established by the board;

7 (2) Accept appropriations, gifts, grants, bequests and devises, and use or dispose of them  
8 to carry out its corporate purposes;

9 (3) Make and execute contracts, releases, compromises, agreements, and other  
10 instruments necessary or convenient for the exercise of its powers or to carry out its corporate  
11 purposes;

12 (4) Collect reasonable fees and charges in connection with making and servicing loans,  
13 notes, bonds, obligations, commitments, and other evidences of indebtedness, in connection with  
14 making equity investments, and in connection with providing technical, consultative, and project  
15 assistance services;

16 (5) Sue and be sued;

17 (6) Make, amend, and repeal bylaws and rules consistent with the provisions of this article;

18 (7) Hire its own employees, who shall be employees of the State of West Virginia for  
19 purposes of §5-10-1 *et seq.* and §5-16-1 *et seq.* of this code, and appoint officers and consultants  
20 and fix their compensation and prescribe their duties;

21 (8) Acquire, hold, and dispose of real and personal property for its corporate purposes;

22 (9) Enter into agreements or other transactions with any federal or state agency, college,  
23 or university, any person, and any domestic or foreign partnership, corporation, association, or  
24 organization;

25 (10) Acquire real and personal property, or an interest in real or personal property, in its  
26 own name, by purchase or foreclosure when acquisition is necessary or appropriate to protect  
27 any loan in which the board has an interest; to sell, transfer, and convey any real or personal  
28 property to a buyer; and, in the event a sale, transfer, or conveyance cannot be effected with  
29 reasonable promptness or at a reasonable price, to lease real or personal property to a tenant;

30 (11) Purchase, sell, own, hold, negotiate, transfer, or assign: (i) Any mortgage, instrument,  
31 note, credit, debenture, guarantee, bond, or other negotiable instrument or obligation securing a  
32 loan, or any part of a loan; (ii) any security or other instrument evidencing ownership or  
33 indebtedness; or (iii) equity or other ownership interest. An offering of one of these instruments  
34 shall include the representation and qualification that the board is a public body corporate  
35 managing a venture capital fund that includes high-risk investments and that in any transfer, sale,  
36 or assignment of any interest, the transferee, purchaser, or assignee accepts any risk without  
37 recourse to the jobs investment trust or to the state;

38 (12) Procure insurance against losses to its property in amounts, and from insurers, as is  
39 prudent;

40 (13) Consent, when prudent, to the modification of the rate of interest, time of maturity,  
41 time of payment of installments of principal, or interest or any other terms of the investment, loan,  
42 contract, or agreement in which the board is a party;

43 (14) Establish training and educational programs to further the purposes of this article;

44 (15) File its own travel rules;

45 (16) Borrow money to carry out its corporate purpose in principal amounts and upon terms  
46 as are necessary to provide sufficient funds for achieving its corporate purpose;

47 (17) Take options in or warrants for, subscribe to, acquire, purchase, own, hold, transfer,  
48 sell, vote, employ, mortgage, pledge, assign, pool, or syndicate: (i) Any loans, notes, mortgages,  
49 or securities; (ii) debt instruments, ownership certificates, or other instruments evidencing loans  
50 or equity; or (iii) securities or other ownership interests of or in domestic or foreign corporations,  
51 associations, partnerships, limited partnerships, limited liability partnerships, limited liability  
52 companies, joint ventures or other private enterprise to foster economic growth, jobs preservation,  
53 and creation in the State of West Virginia and all other acts that carry out the board's purpose;

54 (18) Contract with either Marshall University or West Virginia University, or both, for the  
55 purpose of retaining the services of, and paying the reasonable cost of, services performed by  
56 the institution for the board in order to effectuate the purposes of this article;

57 (19) Enter into collaborative arrangements or contracts with private venture capital  
58 companies when considered advisable by the board;

59 (20) Provide equity financing for any eligible business that will stimulate economic growth  
60 and provide or retain jobs in this state and hold, transfer, sell, assign, pool, or syndicate, or  
61 participate in the syndication of, any loans, notes, mortgages, securities, debt instruments, or  
62 other instruments evidencing loans, or equity interest in furtherance of the board's corporate  
63 purposes;

64 (21) Form partnerships, create subsidiaries, including, without limitation, limited liability  
65 companies or corporations, organized as either for-profit or nonprofit, or take all other actions  
66 necessary to qualify as a small business investment company under the United States Small  
67 Business Investment Act, PL 85-699, as amended, or be certified, without limitation, as a qualified  
68 community development entity or a qualified community development financial institution

69 pursuant to 26 U.S.C. §45D, as amended;

70 (22) Provide for staff payroll and make purchases in the same manner as the housing  
71 development fund;

72 (23) Indemnify its members, directors, officers, employees, and agents relative to actions  
73 and proceedings to which they have been made parties and make advances for expenses relative  
74 thereto and purchase and maintain liability insurance on behalf of those persons all to the same  
75 extent as authorized for West Virginia business corporations under present or future laws of the  
76 state applicable to business corporations generally; and

77 (24) Contract for the provision of legal services by private counsel and, notwithstanding  
78 the provisions of §5-3-1 *et seq.* of this code, counsel may, but is not limited to, represent the board  
79 in court, negotiate contracts and other agreements on behalf of the board, render advice to the  
80 board on any matter relating thereto, prepare contracts and other agreements, and provide any  
81 other legal services requested by the board.