

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**Introduced**

## **Senate Bill 866**

BY SENATOR NELSON

[Introduced February 19, 2024; referred  
to the Committee on Finance]



1 A BILL to amend and reenact §12-6-4 of the Code of West Virginia, 1931, as amended, relating  
2 generally to West Virginia Investment Management Board governance; designating the  
3 State Treasurer as chairman of the board; requiring the chairman to appoint the chief  
4 executive officer of the board subject to board approval; providing that the chief executive  
5 officer will serve until appointment of a successor, resignation, or board removal;  
6 authorizing the chairman to appoint a temporary chief executive officer without board  
7 approval to fill a vacancy for a period of time; and providing an internal effective date.

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

**§12-6-4. Management and control of fund; officers; staff; fiduciary or surety bonds for trustees; liability of trustees.**

1 (a) The management and control of the board shall be vested solely in the trustees in  
2 accordance with the provisions of this article.

3 (b) The ~~Governor~~ State Treasurer shall be the chairman of the board and the trustees shall  
4 elect a vice chairman who may not be a constitutional officer or his or her designee to serve for a  
5 term of two years. Effective with any vacancy in the vice chairmanship, the board shall elect a  
6 vice chairman to a new two-year term. The vice chairman shall preside at all meetings in the  
7 absence of the chairman. Annually, the trustees shall elect a secretary, who need not be a  
8 member of the board, to keep a record of the proceedings of the board.

9 (c) (1) The trustees chairman of the board shall appoint a chief executive officer of the  
10 board, subject to board approval, and shall fix his or her duties and compensation. The chief  
11 executive officer shall serve in his or her position until one of the following occur:

12 (A) A new chief executive officer of the board is appointed and approved by the board;

13 (B) The chief executive officer resigns from his or her position; or

14 (C) The chief executive officer is removed from his or her position by the board.

15           (2) The chairman of the board may appoint a temporary chief executive officer of the  
16 board, without board approval, to fill a vacancy in the position of chief executive officer for a period  
17 of time not to exceed six months.

18           (3) The chief executive officer shall have five years' experience in investment  
19 management with public or private funds within the 10 years next preceding the date of  
20 appointment. The chief executive officer additionally shall have academic degrees, professional  
21 designations, and other investment management or investment oversight or institutional  
22 investment experience in a combination the trustees consider necessary to carry out the  
23 responsibilities of the chief executive officer position as defined by the trustees. The trustees shall  
24 fix the duties and compensation of the chief executive officer.

25           (d) The trustees shall retain an internal auditor to report directly to the trustees and shall  
26 fix his or her compensation. The internal auditor shall be a certified public accountant with at least  
27 three years' experience as an auditor. The internal auditor shall develop an internal audit plan,  
28 with board approval, for the testing of procedures and the security of transactions.

29           (e) The board shall procure and maintain in effect commercially customary property,  
30 liability, crime, and other insurance to cover risks of loss from its operations. The types and  
31 amounts of the insurance coverages shall be determined by the board, from time to time, in its  
32 reasonable discretion, with reference to the types and amounts of insurance coverages  
33 purchased or maintained by other public institutions performing functions similar to those  
34 performed by the board: *Provided*, That the board shall purchase a blanket bond for the faithful  
35 performance of its duties in the amount of at least \$10 million. The board may require that  
36 appropriate types and amounts of insurance be procured and maintained by, or a fiduciary or  
37 surety bond from a surety company qualified to do business in this state for, any person who has  
38 charge of, or access to, any securities, funds, or other moneys held by the board and the amount  
39 of the fiduciary or surety bond shall be fixed by the board. The premiums payable on any  
40 insurance or fiduciary or surety bonds that the board may require, from time to time, shall be an

41 expense of the board. In connection with the duties of the board under this subsection, the board  
42 may establish, fund, and maintain a self-insurance account. If established, the board shall deposit  
43 and maintain moneys in the self-insurance account in amounts as may be determined by the  
44 board in consultation with one or more qualified insurance or actuarial consultants, and all moneys  
45 in any self-insurance account may be used only for the purpose of providing self-insurance,  
46 establishing reserves in connection with insurance deductibles, self-insured retentions, or self-  
47 insurance, or helping to defray the costs of insurance procured under this subsection, and for no  
48 other purpose. The board may procure any and all insurance coverages and bonds deemed  
49 appropriate by the board or required by the provisions of this article, either through the state Board  
50 of Risk and Insurance Management or in the commercial markets, in the discretion of the board.

51 (f) The trustees and employees of the board are not liable personally, either jointly or  
52 severally, for any debt or obligation created by the board: *Provided*, That the trustees and  
53 employees of the board are liable for acts of misfeasance or gross negligence.

54 (g) The board is exempt from the provisions of §12-3-7, §12-3-11, and §5A-3-1 *et seq.* of  
55 this code: *Provided*, That the trustees and employees of the board are subject to purchasing  
56 policies and procedures which shall be promulgated by the board. The purchasing policies and  
57 procedures may be promulgated as emergency rules pursuant to §29A-3-15 of this code.

58 (h) Any employee of the West Virginia Trust Fund who previously was an employee of  
59 another state agency may return to the Public Employees Retirement System pursuant to §5-10-  
60 18 of this code and may elect to either: (1) Transfer to the Public Employees Retirement System  
61 his or her employee contributions, with accrued interest and, if vested, his or her employer  
62 contributions, with accrued interest and retain as credited state service all time served as an  
63 employee of the West Virginia Trust Fund; or (2) retain all employee contributions with accrued  
64 interest and, if vested, his or her employer contributions with interest and forfeit all service credit  
65 for the time served as an employee of the West Virginia Trust Fund.

66            (i) The amendments to this section adopted during the 2024 regular session of the  
67    Legislature are effective July 1, 2025.