



General Assembly

February Session, 2000

Amendment

LCO No. 3170

Offered by:

REP. WARD, 86th Dist.

To: Subst. House Bill No. 5884

File No. 155

Cal. No. 164

***"An Act Concerning The Authority Of The Treasurer
Regarding Investment Of State Trust Funds."***

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (a) There is created a board of trustees of the
4 Connecticut retirement and trust funds defined in section 3-13c of the
5 general statutes, which shall be composed of the following members:
6 one member appointed by the Governor to a term of six years which
7 term shall commence July 1, 2000; one member appointed by the
8 speaker of the House of Representatives to a term of six years which
9 term shall commence July 1, 2000; one by the president pro tempore of
10 the Senate for a term of six years which term shall commence July 1,
11 2000; one by the minority leader of the House of Representatives to a
12 term of four years which term shall commence July 1, 2000; one by the
13 minority leader of the Senate to a term of four years, which term shall
14 commence July 1, 2000; one member appointed by the leaders of the
15 teachers' unions to a term of two years which term shall commence
16 July 1, 2000; and, one member appointed by the leaders of the state

17 employees' unions to a term of two years which term shall commence
18 July 1, 2000. Each subsequent appointment shall be made for a term of
19 six years. Each member of the board shall serve until a successor is
20 appointed and has been qualified. Each member, except those
21 members who represent the teachers' and state employees' unions,
22 shall have a minimum of fifteen years experience in direct
23 management, analysis or supervision of the investment of financial
24 assets, of which five years of such experience shall be at a senior level
25 with assets of a minimum of one billion dollars. No two members of
26 the board may be employed by the same firm or business. For the
27 purposes of this section, "teachers' union" means a representative
28 organization for certified professional employees, as defined in section
29 10-153b of the general statutes, and "state employees' union" means an
30 organization certified to represent state employees, pursuant to section
31 5-275 of the general statutes.

32 (b) Each member of the board shall be a fiduciary of the trust funds
33 as defined in section 3-13c of the general statutes and shall discharge
34 any duties with respect to such trust funds (1) solely in the interests of
35 the beneficiaries of the trust funds and the participants in the systems
36 whose funds comprise the trust funds, (2) for the exclusive purpose of
37 providing benefits to participants and beneficiaries and defraying
38 reasonable expenses of administering the trust funds, (3) with the care,
39 skill, prudence and diligence under the circumstances then prevailing
40 that a prudent person acting in a like capacity and familiar with such
41 matters would use in the conduct of an enterprise of like character and
42 with like purposes, and (4) by diversifying the investments of the trust
43 funds so as to minimize the risk of large losses, unless under the
44 circumstances it is clearly not prudent to do so.

45 (c) No member of the board whose actions comply with the
46 standard of care required by subsection (b) of this section shall be held
47 personally liable for losses suffered by the trust funds as a result of
48 investment decisions made pursuant to chapter 32 of the general
49 statutes. Members of the board shall be deemed to be public officials
50 for purposes of the code of ethics as contained in sections 1-79 to 1-90,

51 inclusive, of the general statutes.

52 (d) No member, any organization or business with which such
53 member is associated, or any corporate affiliate of such business or
54 organization shall directly or indirectly contract with or provide
55 services involving the investment of trust funds of the state of
56 Connecticut during such member's service on the board of trustees or
57 for two years thereafter.

58 (e) The board shall select a chairperson from among the members
59 who shall serve as chairperson at the pleasure of the majority of the
60 board. A majority of the members of the board shall constitute a
61 quorum for the transaction of business, provided that no decision may
62 be made with respect to investment of state funds with fewer than four
63 affirmative votes. Votes by members on investment decisions and
64 investment policies shall be recorded in the minutes of each meeting.
65 Members of the board shall receive an allowance of five hundred
66 dollars per board meeting attended, provided that no member shall
67 receive more than a total of five hundred dollars for meetings on any
68 one day. Members shall also receive reimbursement for all expenses
69 incurred in the performance of duties as members of the board. The
70 board shall meet at least once in each calendar quarter and at such
71 other times as the chairperson deems necessary or upon request of a
72 majority of the board members.

73 (f) The State Treasurer shall present suitable investment
74 opportunities including opportunities to contract with investment
75 managers to the board of trustees for their consideration and approval.
76 No member of the board shall present an investment proposal to the
77 board. The board may retain professional investment counsel to
78 evaluate proposals made by the Treasurer, provided that any
79 investment counsel so retained shall be deemed to be a state employee
80 for purposes of the code of ethics as contained in sections 1-79 to 1-90,
81 inclusive, of the general statutes.

82 (g) Upon approval of the board of trustees of an investment

83 opportunity or investment manager recommended by the State
84 Treasurer, the board shall direct the Treasurer or such other person as
85 the board deems appropriate to effectuate such investment of state
86 funds. Such investment shall be deemed to be in the custody of the
87 state treasurer for administrative purposes. The board shall approve all
88 such investments prior to the investment of any of the state's trust or
89 other funds, provided that board approval shall not be required for
90 investments made by an investment manager who has been approved
91 by the board.

92 Sec. 2. Section 3-13a of the general statutes is repealed and the
93 following is substituted in lieu thereof:

94 (a) The Treasurer shall [, with the advice and consent of the
95 Investment Advisory Council,] appoint an assistant treasurer for
96 investments, who shall serve at the pleasure of the Treasurer. Such
97 assistant shall be sworn to the faithful discharge of [his] duties under
98 law. [He] Such assistant shall, under the direction of the Treasurer and
99 subject to the provisions of sections 3-13 to 3-13d, inclusive, and 3-31b,
100 advise the Treasurer on [investing] investment opportunities including
101 opportunities to contract with investment managers for the funds of
102 the state and shall assist the treasurer in presenting investment
103 opportunities to the board of trustees for their approval. [He] Such
104 assistant shall also perform such other duties as the Treasurer may
105 direct. In addition to such assistant treasurer, the Treasurer may [, with
106 the advice and consent of the Investment Advisory Council,] appoint
107 investment officers and other personnel, to assist said assistant
108 treasurer, which officers and other personnel shall serve at the
109 pleasure of the Treasurer.

110 (b) The Treasurer may retain professional investment counsel to
111 evaluate and recommend [to him] changes in the portfolio of the state's
112 trust and other funds. Said counsel shall inform the Treasurer of
113 suitable investment opportunities and shall investigate the investment
114 merit of any security or group of securities.

115 (c) The cost of operating the investment department including the
116 cost of personnel and professional investment counsel retained under
117 sections 3-13 to 3-13d, inclusive, and 3-31b shall be paid by the
118 Treasurer charging the income derived from the trust funds.

119 Sec. 3. (NEW) (a) The Treasurer shall not direct the payment of any
120 third party fees to any person other than third party fees paid in
121 connection with state bond sales or fees permitted by the Internal
122 Revenue Code in connection with guaranteed investment contracts
123 related to debt issuance.

124 (b) Neither the Treasurer, nor any agent or employee of the
125 Treasurer, shall make personal use of any credit or thing of value given
126 by a broker or firm in connection with the investment of state funds.

127 Sec. 4. (NEW) (a) No person may, directly or indirectly, pay a
128 finder's fee to any person in connection with any investment
129 transaction involving the state or any political subdivision of the state.
130 No person may, directly or indirectly, receive a finder's fee in
131 connection with any investment transaction involving the state or any
132 political subdivision of the state.

133 (b) For purposes of this section:

134 (1) "Finder's fee" means compensation in the form of cash, cash
135 equivalents or other things of value paid or received in connection
136 with an investment transaction to which the state, any political
137 subdivision of the state or any quasi-public agency, as defined in
138 section 1-120 of the general statutes, is a party for any services, and
139 includes, but is not limited to, any fee paid for lobbying, as defined in
140 subsection (k) of section 1-91 of the general statutes.

141 (2) "Finder's fee" does not mean (A) compensation earned for the
142 rendering of investment services as defined in subsection (f) of section
143 9-333n of the general statutes, (B) marketing fees or due diligence fees
144 earned by the payee in connection with the offer, sale or purchase of
145 any security or investment interest, as defined in regulations which

146 shall be adopted by the Treasurer in accordance with the provisions of
147 chapter 54 of the general statutes, or (C) paid to persons who are
148 investment professionals engaged in the ongoing business of
149 representing investment managers.

150 (3) "Investment professional" means an individual or firm whose
151 primary business is bringing together institutional investors and
152 investment opportunities and who (A) is a broker-dealer or investment
153 advisor licensed or registered (i) under the Connecticut Uniform
154 Securities Act; (ii) with the Securities and Exchange Commission, in
155 accordance with the Investment Advisors' Act of 1940 or the Securities
156 Exchange Act of 1934; or (iii) with the National Association of
157 Securities Dealers in accordance with the Securities Exchange Act of
158 1934, or (B) meets criteria for individuals or firms who may
159 appropriately receive finder's fees which criteria are established by the
160 Ethics Commission, in consultation with the Treasurer, in regulations
161 adopted in accordance with the provisions of chapter 54 of the general
162 statutes.

163 Sec. 5. (NEW) (a) Any person who violates any provision of section
164 4 of this act shall be assessed a civil penalty not to exceed ten thousand
165 dollars, to be fixed by the court, for each violation.

166 (b) The Attorney General, upon complaint of the Treasurer, shall
167 institute a civil action in the superior court for the judicial district of
168 Hartford to recover any such penalty. In determining the amount of
169 any penalty assessed under this section, the court may consider the
170 nature, circumstances, extent and gravity of the violation, the person's
171 prior history of violations, the economic benefit resulting to the person
172 from the violation, and such other factors deemed appropriate by the
173 court.

174 Sec. 6. (NEW) (a) No Treasurer, during the term for which such
175 Treasurer was elected, may solicit contributions as defined in section 9-
176 333b of the general statutes for any candidate for the office of
177 Governor, Lieutenant Governor, Secretary of the State, Treasurer,

178 Attorney General, Comptroller, state senator or state representative
179 from any (1) political committee established by a firm that provides
180 investment services for brokerage, underwriting and financial
181 advisory activities which are in the statutory and constitutional
182 purview of the Treasurer and to which the Treasurer pays
183 compensation, expenses, or fees or issues a contract; (2) individual
184 who is an owner of or partner in a firm that provides investment
185 services for brokerage, underwriting and financial advisory activities
186 which are in the statutory and constitutional purview of the Treasurer
187 and to which the Treasurer pays compensation, expenses or fees or
188 issues a contract; or (3) individual who is employed by any firm that
189 provides investment services for brokerage, underwriting and
190 financial advisory activities which are in the statutory and
191 constitutional purview of the Treasurer and to which the Treasurer
192 pays compensation, expenses, or fees or issues a contract, as a
193 manager, officer, director, partner or other employee with managerial
194 or discretionary responsibilities to invest or manage funds or provide
195 investment services for brokerage, underwriting and financial
196 advisory activities.

197 (b) No candidate for the office of Governor, Lieutenant Governor,
198 Secretary of the State, Treasurer, Attorney General, Comptroller, state
199 senator or state representative may accept contributions, as defined in
200 section 9-333b of the general statutes, from any (1) political committee
201 established by a firm that provides investment services for brokerage,
202 underwriting and financial advisory activities which are in the
203 statutory and constitutional purview of the Treasurer and to which the
204 Treasurer pays compensation, expenses, or fees or issues a contract; (2)
205 individual who is an owner of or partner in a firm that provides
206 investment services for brokerage, underwriting and financial
207 advisory activities which are in the statutory and constitutional
208 purview of the Treasurer and to which the Treasurer pays
209 compensation, expenses or fees or issues a contract; or (3) individual
210 who is employed by any firm that provides investment services for
211 brokerage, underwriting and financial advisory activities which are in

212 the statutory and constitutional purview of the Treasurer and to which
213 the Treasurer pays compensation, expenses or fees or issues a contract,
214 as a manager, officer, director, partner or other employee with
215 managerial or discretionary responsibilities to invest or manage funds
216 or provide investment services for brokerage, underwriting and
217 financial advisory activities if such contribution was solicited by a
218 State Treasurer during the term for which he was elected.

219 (c) For purposes of this section "investment services" means legal
220 services, investment banking services, investment advisory services,
221 underwriting services, financial advisory services or brokerage firm
222 services.

223 Sec. 7. (NEW) No Treasurer or former Treasurer may seek, negotiate
224 for or accept employment with any party to a contract for investment
225 services valued at more than fifty thousand dollars if the Treasurer
226 authorized, negotiated, renegotiated or awarded such contract for a
227 period of two years from the date of the authorization, negotiation,
228 renegotiation or award of the contract, or for two years from the
229 expiration of the term for which the Treasurer was elected, whichever
230 is later.

231 Sec. 8. This act shall take effect from its passage, except that sections
232 1 and 2 shall take effect January 8, 2003."