



General Assembly

Substitute Bill No. 5884

February Session, 2000

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 3-13b of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) There is created an Investment Advisory Council which shall
4 consist of the following: (1) The Secretary of the Office of Policy and
5 Management who shall serve as an ex-officio member of said council;
6 (2) the State Treasurer who shall serve as an ex-officio member of said
7 council; (3) five public members all of whom shall be experienced in
8 matters relating to investments. The Governor, the president pro
9 tempore of the Senate, the Senate minority leader, the speaker of the
10 House of Representatives and the minority leader of the House of
11 Representatives shall each appoint one such public member to serve
12 for a term of four years. No such public member or such member's
13 business organization or affiliate shall directly or indirectly contract
14 with or provide any services for the investment of trust funds of the
15 state of Connecticut during the time of such member's service on said
16 council and for one year thereafter. The term of each public member in
17 office on June 30, 1983, shall end on July 1, 1983. The appointing
18 authority shall fill all vacancies of the public members; (4) three
19 representatives of the teachers' unions, and two representatives of the
20 state employees' unions. On or before July 15, 1983, the teachers'

21 unions shall jointly submit to the State Treasurer a list of three
22 nominees, and the state employees' unions or a majority thereof who
23 represent a majority of state employees shall jointly submit to the
24 Treasurer a list of two nominees. On or before July 30, 1983, the
25 Governor shall appoint five members of the council from such lists, for
26 terms of two years. Any person appointed to fill a vacancy or to be a
27 new member at the expiration of a given term, whose predecessor in
28 that position was either a representative of one of the teachers' unions
29 or one of the state employees' unions, shall also be a representative of
30 such respective union group. Any such appointee shall be appointed
31 by the Governor from a list of nominees submitted to the Treasurer by
32 the teachers' unions or state employees' unions or such majority
33 thereof, as the case may be, within thirty days of notification by the
34 Treasurer of the existence of a vacancy or a prospective vacancy, or the
35 expiration or prospective expiration of a term. All members of the
36 council shall serve until their respective successors are appointed and
37 have qualified. No public member of the council shall serve more than
38 two consecutive terms which commence on or after July 1, 1983.

39 (b) The Governor shall designate one of the members to be
40 chairperson of the council to serve as such at [his] the Governor's
41 pleasure. The Treasurer shall serve as secretary of said council. A
42 majority of the members of the council then in office will constitute a
43 quorum for the transaction of any business, and action shall be by the
44 vote of a majority of the members present at a meeting. Votes by
45 members on investment policies shall be recorded in the minutes of
46 each meeting. Members of said council shall not be compensated for
47 their services but shall be reimbursed for all necessary expenses
48 incurred in the performance of their duties as members of said council.
49 The council shall meet at least once during each calendar quarter and
50 at such other times as the chairperson deems necessary or upon the
51 request of a majority of the members in office. Special meetings shall
52 be held at the request of such majority after notice in accordance with
53 the provisions of section 1-225, as amended. Any member who fails to
54 attend three consecutive meetings or who fails to attend fifty per cent

55 of all meetings held during any calendar year shall be deemed to have
56 resigned from office.

57 (c) (1) The Treasurer shall recommend to the Investment Advisory
58 Council an Investment Policy Statement which shall set forth the
59 standards governing investment of trust funds by the Treasurer. Such
60 statement shall include, with respect to each trust fund, without
61 limitation, (A) investment objectives; (B) asset allocation policy and
62 risk tolerance; (C) asset class definitions, including specific types of
63 permissible investments within each asset class and any specific
64 limitations or other considerations governing the investment of any
65 funds; (D) investment manager guidelines; (E) investment
66 performance evaluation guidelines; (F) guidelines for the selection and
67 termination of providers of investment related services who shall
68 include, but not be limited to, investment advisors, external money
69 managers, investment consultants, custodians, brokers, legal counsel,
70 and similar investment industry professionals; and (G) proxy voting
71 guidelines. Such statement shall further include a description of the
72 role of the investment department staff in making decisions regarding
73 investment of trust funds, including any procedures or policies which
74 facilitate the management of information necessary for decision-
75 making related to trust fund investment and any procedures or
76 policies by which such information shall be disclosed to the public. A
77 draft of the statement shall be submitted to the Investment Advisory
78 Council at a meeting of said council and shall be made available to the
79 public. Notice of such availability shall be published in at least one
80 newspaper having a general circulation in each municipality in the
81 state which publication shall be not less than two weeks prior to such
82 meeting. Said council shall review the draft statement and shall
83 publish any recommendations it may have for changes to such
84 statement in the manner provided for publication of the statement by
85 the Treasurer. The Treasurer shall thereafter adopt the statement,
86 including any such changes the Treasurer deems appropriate. Any
87 revisions or additions to the Investment Policy Statement shall be
88 made in accordance with the procedures set forth in this subdivision

89 for the adoption of the statement. The Treasurer shall annually review
90 the Investment Policy Statement and shall consult with the Investment
91 Advisory Council regarding possible revisions to such statement.

92 [(c)] (2) All trust fund investments by the State Treasurer shall be
93 reviewed by said Investment Advisory Council. [The council shall
94 recommend to the State Treasurer investment policies consistent with
95 the law pertaining to the kind or nature of investment, including
96 limitations, conditions or restrictions upon the methods, practices or
97 procedures for investment, reinvestment, purchase, sale or exchange
98 transactions.] The Treasurer shall provide to the council all
99 information regarding such investments which may be relevant to the
100 council's review. The council shall promptly notify the Auditors of
101 Public Accounts and the Comptroller of any unauthorized, illegal,
102 irregular or unsafe handling or expenditure of trust funds or
103 breakdowns in the safekeeping of trust funds or contemplated action
104 to do the same within their knowledge. The Governor may direct the
105 Treasurer to change any investments made by the Treasurer when in
106 the judgment of said council such action is for the best interest of the
107 state. Said council shall, at the close of the fiscal year, make a complete
108 examination of the security investments of the state and determine as
109 of June thirtieth, the value of such investments in the custody of the
110 Treasurer and report thereon to the Governor, the General Assembly
111 and beneficiaries of trust funds administered, held or invested by the
112 Treasurer. With the approval of the Treasurer and the council, said
113 report may be included in the Treasurer's annual report. [The
114 provisions of this section shall apply to all investments made by the
115 Treasurer for both trust and civil list funds.]

116 (d) The Investment Advisory Council shall be within the office of
117 the State Treasurer for administrative purposes only.

118 (e) For the purposes of this section, "teachers' union" means a
119 representative organization for certified professional employees, as
120 defined in section 10-153b, and "state employees' union" means an
121 organization certified to represent state employees, pursuant to section

122 5-275.

123 Sec. 2. Subsection (a) of section 3-13d of the general statutes is
124 repealed and the following is substituted in lieu thereof:

125 (a) Notwithstanding any other provision in the general statutes or
126 elsewhere to the contrary, the Treasurer shall invest as much of the
127 state's trust funds as are not required for current disbursements in
128 accordance with the provisions of section 45a-203 or the provisions of
129 this part. [Notwithstanding the provisions of this section or any other
130 provision in the general statutes or elsewhere to the contrary, the
131 Treasurer shall not invest more than fifty-five per cent of the market
132 value of each such trust fund in common stock, except in the event of a
133 stock market fluctuation that causes the common stock percentage to
134 increase and the Treasurer deems it in the best interest of such trust
135 fund to maintain a higher percentage of equities, provided the
136 Treasurer shall not allow the market value of each such trust fund in
137 common stock to exceed fifty-five per cent for more than six months
138 after such fluctuation occurs. Investments in real estate investment
139 trusts (REITS) shall be considered alternative investments and not
140 common stock investments under this section.] All trust fund
141 investments shall be made in accordance with the Investment Policy
142 Statement adopted under section 3-13b, as amended by this act. In
143 order to increase the income for each such combined investment fund
144 established pursuant to section 3-31b, the Treasurer may enter into
145 repurchase agreements or lend securities from each such fund,
146 provided that at the time of the execution of the repurchase agreement
147 or the loan at least one hundred per cent of the market value of the
148 security sold or lent shall be received as consideration in the form of
149 cash or securities guaranteed by the United States government or any
150 agency of the United States government in the case of a repurchase
151 agreement or secured by cash or such securities in the case of a loan.
152 At all times during the term of each such repurchase agreement or the
153 term of each such loan the consideration received or the collateral shall
154 be equal to not less than ninety-five per cent of the full market value of
155 the security and said consideration received or said collateral shall not

156 be more than one hundred thousand dollars less than the full market
157 value of the security. The Treasurer may sell call options which would
158 give the holders of such options the right to purchase securities held
159 by the Treasurer at the date the call is sold for investment purposes,
160 under such terms and conditions as the Treasurer may determine.
161 Among the factors to be considered by the Treasurer with respect to all
162 securities may be the social, economic and environmental implications
163 of investments of trust funds in particular securities or types of
164 securities. In the investment of the state's trust funds the Treasurer
165 shall consider the implications of any particular investment in relation
166 to the foreign policy and national interests of the United States.

167 Sec. 3. (NEW) On and after January 1, 2001, any contract for services
168 related to the investment of trust funds, as defined in section 3-13c of
169 the general statutes, shall be subject to the Investment Policy Statement
170 adopted under section 3-13b of the general statutes, as amended by
171 this act. No contract for services related to the investment of such
172 funds shall be awarded to a provider of such services until the
173 Treasurer's recommendation of a provider is reviewed by the
174 Investment Advisory Council. The Treasurer shall provide notice of
175 such recommendation at a meeting of the council. Not later than forty-
176 five days after such meeting, the council may file a written review of
177 the Treasurer's recommendation concerning the selection of such
178 provider with the Office of the Treasurer where it shall be available for
179 public inspection. The Treasurer may proceed to award the contract
180 after such forty-five day period.

181 Sec. 4. Section 3-13d of the general statutes is amended by adding
182 subsection (e) as follows:

183 (NEW) (e) Notwithstanding any provision of the general statutes,
184 neither the Treasurer, the Deputy Treasurer nor any acting Treasurer
185 shall make a private equity or real estate investment or execute a
186 contract for services related to the investment of trust funds, as defined
187 in section 3-13c of the general statutes, without the approval of the
188 Investment Advisory Council, for the balance of the Treasurer's term

189 of office, on or after any of the following events: (1) The defeat of the
190 Treasurer (A) in a ballot for the party nomination for Treasurer at a
191 convention where said Treasurer was a candidate for nomination, (B)
192 in a primary for nomination for said office where said Treasurer was a
193 candidate for nomination, or (C) upon the completion of a canvass of
194 the returns from such primary under section 9-445 or 9-446, whichever
195 is later, (2) the defeat of said Treasurer (i) in the election for said office
196 or (ii) upon the completion of a canvass of the returns from such
197 election under section 9-311, 9-311a or 9-311b, or (3) the resignation of
198 the Treasurer, provided this section shall not apply to a Treasurer
199 approved by the General Assembly under section 9-213 of the general
200 statutes, as amended by section 15 of this act.

201 Sec. 5. (NEW) (a) Prior to the Treasurer entering into a contract for
202 investment services, as defined in section 9-333n of the general
203 statutes, any person or entity who would be a party to that contract
204 shall disclose to the Treasurer, in writing, all third party fees
205 attributable to such contract. Such disclosure shall be made by firms
206 providing such services and shall be in a sworn affidavit in a manner
207 and form prescribed in regulations which shall be adopted by the
208 Treasurer, in accordance with the provisions of chapter 54 of the
209 general statutes, not later than three months after the effective date of
210 this section. Information disclosed under this subsection shall be made
211 available for public inspection. The direct purchase or sale of
212 individual securities under such contract shall be executed only
213 through banks, brokers or dealers that have made required disclosures
214 regarding any such third party fees.

215 (b) Prior to any quasi-public agency, as defined in section 1-120 of
216 the general statutes, entering into a contract for investment services, as
217 defined in section 9-333n of the general statutes, any person or entity
218 who would be a party to that contract shall disclose to the quasi-public
219 agency entering into the contract, in writing, all third party fees
220 attributable to such contract. Such disclosure shall be made by firms
221 providing such services and shall be in a sworn affidavit in a manner
222 and form as prescribed in regulations which shall be adopted by each

223 such agency, in accordance with the provisions of chapter 54 of the
224 general statutes, not later than three months after the effective date of
225 this section. Information disclosed under this subsection shall be made
226 available for public inspection. The direct purchase or sale of
227 individual securities under any such contract shall be executed only
228 through banks, brokers or dealers that have made required disclosures
229 regarding any such third party fees.

230 (c) For purposes of this section and section 6 of this act, "third party
231 fees" includes, but is not limited to, management fees, placement agent
232 fees, solicitation fees, referral fees, promotion fees, introduction or
233 matchmaker fees, and due diligence fees.

234 Sec. 6. (NEW) (a) The Treasurer shall not direct the payment of any
235 third party fees to any person other than third party fees paid in
236 connection with state bond sales or fees permitted by the Internal
237 Revenue Code in connection with guaranteed investment contracts
238 related to debt issuance.

239 (b) Neither the Treasurer, nor any agent or employee of the
240 Treasurer, shall make personal use of any credit or thing of value given
241 by a broker or firm in connection with the investment of trust funds.

242 Sec. 7. (NEW) (a) No person may, directly or indirectly, pay a
243 finder's fee to any person in connection with any investment
244 transaction involving the state or any political subdivision of the state.
245 No person may, directly or indirectly, receive a finder's fee in
246 connection with any investment transaction involving the state or any
247 political subdivision of the state.

248 (b) For purposes of this section:

249 (1) "Finder's fee" means compensation in the form of cash, cash
250 equivalents or other things of value paid or received in connection
251 with an investment transaction to which the state, any political
252 subdivision of the state or any quasi-public agency, as defined in
253 section 1-120 of the general statutes, is a party for any services, and

254 includes, but is not limited to, any fee paid for lobbying, as defined in
255 subsection (k) of section 1-91 of the general statutes.

256 (2) "Finder's fee" does not mean (A) compensation earned for the
257 rendering of investment services as defined in subsection (f) of section
258 9-333n of the general statutes, (B) marketing fees or due diligence fees
259 earned by the payee in connection with the offer, sale or purchase of
260 any security or investment interest, as defined in regulations which
261 shall be adopted by the Treasurer in accordance with the provisions of
262 chapter 54 of the general statutes, or (C) paid to persons who are
263 investment professionals engaged in the ongoing business of
264 representing investment managers.

265 (3) "Investment professional" means an individual or firm whose
266 primary business is bringing together institutional investors and
267 investment opportunities and who (A) is a broker-dealer or investment
268 advisor licensed or registered (i) under the Connecticut Uniform
269 Securities Act; (ii) with the Securities and Exchange Commission, in
270 accordance with the Investment Advisors' Act of 1940 or the Securities
271 Exchange Act of 1934; or (iii) with the National Association of
272 Securities Dealers in accordance with the Securities Exchange Act of
273 1934, or (B) (i) furnishes an investment manager with marketing
274 services including, but not limited to, developing an overall marketing
275 strategy focusing on more than one institutional investor, designing or
276 publishing marketing brochures or other presentation material such as
277 logos and brands for investment products, responding to requests for
278 proposals, completing due diligence questionnaires, identifying a
279 range of potential investors, or such other services as may be identified
280 in regulations adopted by the Treasurer, in accordance with the
281 provisions of chapter 54 of the general statutes, and (ii) has contacts
282 regarding potential investments with more than ten institutional
283 investors in the preceding twelve months or was involved in more
284 than one transaction or potential transaction in the preceding twelve
285 months.

286 Sec. 8. (NEW) (a) Any person who violates any provision of section

287 5 of this act shall be assessed a civil penalty not to exceed two
288 thousand dollars, to be fixed by the court, for each violation.

289 (b) Any person who violates any provision of section 7 of this act
290 shall be assessed a civil penalty not to exceed ten thousand dollars, to
291 be fixed by the court, for each violation.

292 (c) The Attorney General, upon complaint of the Treasurer, shall
293 institute a civil action in the superior court for the judicial district of
294 Hartford to recover any such penalty. In determining the amount of
295 any penalty assessed under this section, the court may consider the
296 nature, circumstances, extent and gravity of the violation, the person's
297 prior history of violations, the economic benefit resulting to the person
298 from the violation, and such other factors deemed appropriate by the
299 court.

300 Sec. 9. Section 1-89 of the general statutes is amended by adding
301 subsection (d) as follows:

302 (NEW) (d) Any fines, penalties or damages paid, collected or
303 recovered under section 1-88 or this section for a violation of any
304 provision of this part applying to the office of the Treasurer shall be
305 deposited on a pro rata basis in any trust funds, as defined in section 3-
306 13c, as amended, affected by such violation.

307 Sec. 10. Section 1-100 of the general statutes is repealed and the
308 following is substituted in lieu thereof:

309 (a) Any person who intentionally violates any provision of this part
310 shall be imprisoned for a term not to exceed one year or shall be fined
311 an amount not to exceed two thousand dollars, or both.

312 (b) Any fines, penalties or damages paid, collected or recovered
313 under section 1-99 or this section for a violation of any provision of this
314 part applying to the office of the Treasurer shall be deposited on a pro
315 rata basis in any trust funds, as defined in section 3-13c, as amended,
316 affected by such violation.

317 Sec. 11. Subdivision (2) of section 9-7b of the general statutes is
318 repealed and the following is substituted in lieu thereof:

319 (2) To levy a civil penalty not to exceed (A) two thousand dollars
320 per offense against any person the commission finds to be in violation
321 of any provision of chapter 145, part V of chapter 146, part I of chapter
322 147, chapter 148, section 9-12, subsection (a) of section 9-17, section 9-
323 19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h, 9-23j to 9-
324 23o, inclusive, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-
325 50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-409, 9-410, 9-412, 9-436, 9-
326 436a, 9-453e to 9-453h, inclusive, 9-453k or 9-453o, or (B) two thousand
327 dollars per offense or twice the amount of any improper payment or
328 contribution, whichever is greater, against any person the commission
329 finds to be in violation of any provision of chapter 150. The
330 commission may levy a civil penalty against any person under
331 subparagraph (A) or (B) of this subdivision only after giving the
332 person an opportunity to be heard at a hearing conducted in
333 accordance with sections 4-176e to 4-184, inclusive. In the case of
334 failure to pay any such penalty levied pursuant to this subsection
335 within thirty days of written notice sent by certified or registered mail
336 to such person, the superior court for the judicial district of Hartford,
337 on application of the commission, may issue an order requiring such
338 person to pay the penalty imposed and such court costs, sheriff's fees
339 and attorney's fees incurred by the commission as the court may
340 determine. Any civil penalties paid, collected or recovered under
341 subparagraph (B) of this subdivision for a violation of any provision of
342 chapter 150 applying to the office of the Treasurer shall be deposited
343 on a pro rata basis in any trust funds, as defined in section 3-13c, as
344 amended, affected by such violation.

345 Sec. 12. Subsection (a) of section 9-333y of the general statutes is
346 repealed and the following is substituted in lieu thereof:

347 (a) Any person who knowingly and wilfully violates any provision
348 of this chapter shall be fined not more than five thousand dollars or
349 imprisoned not more than five years or both. The Secretary of the State

350 or the town clerk shall notify the State Elections Enforcement
351 Commission of any such violation of which said secretary or such
352 town clerk may have knowledge. Any such fine for a violation of any
353 provision of this chapter applying to the office of the Treasurer shall be
354 deposited on a pro rata basis in any trust funds, as defined in section 3-
355 13c, as amended, affected by such violation.

356 Sec. 13. Subsection (b) of section 2-90 of the general statutes is
357 repealed and the following is substituted in lieu thereof:

358 (b) Said auditors, with the Comptroller, shall, at least annually and
359 as frequently as they deem necessary, audit the books and accounts of
360 the Treasurer, including, but not limited to, trust funds, as defined in
361 section 3-13c, as amended, and certify the results to the Governor. The
362 auditors shall, at least annually and as frequently as they deem
363 necessary, audit the books and accounts of the Comptroller and certify
364 the results to the Governor. They shall examine and prepare
365 certificates of audit with respect to the financial statements contained
366 in the annual reports of the Treasurer and Comptroller, which
367 certificates shall be made part of such annual reports. In carrying out
368 their responsibilities under this section, said auditors may retain
369 independent auditors to assist them.

370 Sec. 14. Section 3-13a of the general statutes is repealed and the
371 following is substituted in lieu thereof:

372 (a) The Treasurer shall, with the advice and consent of the
373 Investment Advisory Council, appoint [an assistant treasurer for
374 investments] a pension fund investment officer, who shall serve at the
375 pleasure of the Treasurer and whose compensation shall be
376 determined by the Treasurer within a salary range established by the
377 Treasurer in consultation with the Investment Advisory Council. The
378 provisions of section 4-40 shall not apply to the compensation of said
379 officer. [Such assistant] Said officer shall be sworn to the faithful
380 discharge of [his] duties under law. [He] Said officer shall, under the
381 direction of the Treasurer and subject to the provisions of sections 3-13

382 to 3-13d, inclusive, and 3-31b, advise the Treasurer on investing the
383 trust funds of the state [. He] and shall report to the Treasurer on a
384 quarterly basis regarding the allocation of assets in the investments of
385 trust funds and any recommendations for changes to such allocation.
386 After the Treasurer has reviewed such report, said officer shall make
387 such report to the Investment Advisory Council. Said officer shall
388 manage all information with regard to the investment of all trust funds
389 and shall make such information available to the public by means
390 which shall include, but not be limited to, posting such information on
391 a website on the Internet or any other generally available online
392 computer network. Said officer shall also perform such other duties as
393 the Treasurer may direct. In addition to [such assistant treasurer] said
394 officer, the Treasurer may, with the advice and consent of the
395 Investment Advisory Council, appoint investment officers and other
396 personnel [,] to assist said [assistant treasurer] pension fund
397 investment officer, which officers and other personnel shall serve at
398 the pleasure of the Treasurer.

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

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

408 Sec. 15. Section 9-213 of the general statutes is repealed and the
409 following is substituted in lieu thereof:

410 (a) If the office of Secretary of the State [, Treasurer] or Comptroller
411 becomes vacant, the General Assembly, if in session, shall fill it; but, if
412 the vacancy occurs when the General Assembly is not in session or if
413 the General Assembly fails to make an appointment to fill the vacancy,

414 it shall be filled by the Governor.

415 (b) Any vacancy in the office of Attorney General shall be filled by
416 appointment by the Governor for the unexpired portion of the term.

417 (c) (1) If the office of the Treasurer becomes vacant, the General
418 Assembly, if in session, shall fill the vacancy for the unexpired portion
419 of the term. (2) If the vacancy occurs when the General Assembly is not
420 in session, or if the General Assembly fails to make an appointment to
421 fill the vacancy and the vacancy does not occur in the year in which a
422 state election is to be held for the office of the Treasurer, the Governor
423 shall appoint a person to serve as acting Treasurer until the next
424 regular session of the General Assembly at which time the Governor
425 shall nominate a successor for the office of Treasurer who shall be
426 subject to approval by the General Assembly. (3) If the vacancy occurs
427 when the General Assembly is not in session or if the General
428 Assembly fails to make an appointment to fill the vacancy and the
429 vacancy occurs in the year in which a state election is to be held for the
430 office of the Treasurer, the Deputy Treasurer shall fill the vacancy for
431 the unexpired portion of the term.

432 Sec. 16. This act shall take effect from its passage, except that section
433 2 shall take effect January 1, 2001.

FIN Committee Vote: Yea 34 Nay 4 JFS