General Assembly

Amendment

January Session, 2007

LCO No. **8852**

SB0084808852SD0

Offered by:
SEN. PRAGUE, 19th Dist.

To: Subst. Senate Bill No. **848** File No. 683 Cal. No. 536

"AN ACT CONCERNING LOANS TO MUNICIPALITIES TO FULLY FUND PENSION SYSTEMS."

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

"Section 1. Subsection (a) of section 3-20a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) Provisions of this section shall apply to general obligation bonds or notes issued pursuant to section 3-20, special tax obligation bonds or notes issued pursuant to sections 13b-74 to 13b-77, inclusive, abandoned property fund bonds issued pursuant to section 3-62h, Clean Water Fund bonds or notes issued pursuant to section 22a-483, Bradley International Airport bonds or notes issued pursuant to sections 15-101k to 15-101p, inclusive, unemployment compensation bonds or notes issued pursuant to sections 31-264a and 31-264b, UConn 2000 bonds or notes issued pursuant to sections 10a-109a to 10a-109y, inclusive, Second Injury Fund bonds or notes issued pursuant to section 31-354b and sections 8 and 9 of public act 96-242*, and revenue anticipation bonds issued pursuant to section 13b-79r<u>, and municipal pension solvency account bonds issued pursuant to section 4 of this act</u>.

Sec. 2. (NEW) (*Effective July 1, 2007*) As used in this section and sections 3 and 4 of this act:

(1) "Municipal pension solvency account" means the account created in section 3 of this act;

(2) "Loan program" means the loans given to municipalities by the state pursuant to sections 3 and 4 of this act;

(3) "Municipality" means any metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district or public authority and each municipal organization having authority to levy and collect taxes or make charges for its authorized function;

(4) "Municipal pension solvency loan" means a loan made to a recipient by the state from the municipal pension solvency account;

(5) "Municipal pension solvency account agreement" means a written agreement between the state, acting by and through the Treasurer and a recipient with respect to a municipal pension solvency loan as provided under sections 3 and 4 of this act;

(6) "Priority list of eligible municipalities" means the list established by the Treasurer and the secretary pursuant to subsection (f) of section 3 of this act;

(7) "Recipient" means a municipality receiving a municipal pension solvency loan;

(8) "State bond anticipation note" means any note or notes issued by the state in anticipation of the issuance of bonds;

(9) "Secretary" means the Secretary of the Office of Policy and Management, or the secretary's designee;

(10) "Treasurer" means the State Treasurer, or the Treasurer's designee;

(11) "Actuarial valuation" means a determination, certified by an enrolled actuary by a method and using assumptions meeting the parameters established by generally accepted accounting principles, of the normal cost, actuarial accrued liability, actuarial value of assets and related actuarial present values for a pension fund of a municipality as of a valuation date not more than thirty months preceding the date of any municipal pension solvency loan given to a municipality by the state pursuant to sections 3 and 4 of this act, together with an actuarial update of such valuation as of a date not more than three months preceding the date of any such loan;

(12) "Actuarially recommended contribution" means the annual required contribution of the municipality to the pension fund of the municipality, as established by the actuarial valuation and determined by an enrolled actuary in a method and using assumptions meeting the parameters established by generally accepted accounting principles;

(13) "Chief executive officer" means (A) for a municipality, as defined in section 7-187 of the general statutes, the officer defined in section 7-193 of the general statutes, (B) for a metropolitan district, the officer defined in the special act, charter, local ordinance or other local law applicable to such metropolitan district, (C) for a district, as defined in section 7-324 of the general statutes, the president of its board of directors, (D) for a regional school district, the chairperson of its regional board of education, and (E) for any other municipal corporation having the power to levy taxes and to issue bonds, notes or other obligations, such officer as prescribed by the general statutes or in any special act, charter, special act charter, home-rule ordinance, local ordinance or local law applicable to such municipal corporation;

(14) "Enrolled actuary" means a person who is enrolled by the Joint

Board for the Enrollment of Actuaries, established under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974, as from time to time amended;

(15) "Obligation" means any bond or any other transaction that constitutes debt in accordance with both municipal reporting standards required under section 7-394a of the general statutes and the regulations prescribing municipal financial reporting adopted by the secretary pursuant to said section 7-394a; and

(16) "Unfunded past benefit obligation" means the unfunded actuarial accrued liability of the pension fund determined by a method and using assumptions meeting the parameters established by generally accepted accounting principles.

Sec. 3. (NEW) (*Effective July 1, 2007*) (a) There is established an account to be known as the "municipal pension solvency account" which shall be a separate nonlapsing account within the General Fund. The account shall contain: (1) The proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit in said account and use in accordance with this section and section 4 of this act; (2) payments received from any municipality in repayment of a municipal pension solvency loan; (3) interest or other income earned on the investment of moneys in said account; and (4) any additional moneys made available from any sources, public or private, for the purposes for which said account was established and for the purpose of deposit in said account.

(b) Within the municipal pension solvency account, there shall be two subaccounts: (1) A state bond receipts subaccount into which shall be deposited the proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit in said account, and (2) an additional moneys receipts subaccount into which shall be deposited any additional moneys made available from any sources, public or private, for the purposes for which said account was established and for the purpose of deposit in such subaccount. Moneys in each subaccount created under this subsection may be expended by the Treasurer for any of the purposes of the municipal pension solvency account and investment earnings of a subaccount shall be deposited in such subaccount.

(c) In addition to the subaccounts established in subsection (b) of this section, the Treasurer may establish such additional subaccounts within the municipal pension solvency account as necessary to effectuate the purposes of this section and section 4 of this act, including, but not limited to, subaccounts (1) to segregate a portion or portions of the corpus of the account or as security for revenue bonds issued by the state for deposit in the account, (2) to segregate investment earnings on all or a portion of the account, or (3) to segregate moneys in the account that have previously been expended for the benefit of a loan recipient from moneys that are initial deposits in the account.

(d) Any moneys held by the Treasurer or by a trustee pursuant to an indenture of trust with respect to municipal pension solvency account bonds including pledged revenues, other pledged receipts, funds or moneys and proceeds from the sale of such municipal pension solvency account bonds, may, pending the use or application of such proceeds for an authorized purpose, be (1) invested and reinvested in such obligations, securities and investments as are set forth in subsection (f) of section 3-20 of the general statutes, in participation certificates in the Short Term Investment Funds created under sections 3-27a and 3-27f of the general statutes and in participation certificates or securities of the Tax-Exempt Proceeds Fund created under section 3-24a of the general statutes, or (2) deposited or redeposited in such bank or banks as shall be provided in the proceedings authorizing the issuance of municipal pension solvency account bonds. Unless the proceedings provide otherwise, proceeds from investments authorized by this subsection, less amounts required under the proceedings for the payment of municipal pension solvency loan costs relating to such municipal pension solvency account bonds, shall be credited to the municipal pension solvency account.

(e) Investment earnings credited to the assets of the municipal pension solvency account and to any subaccount of said account shall become part of the assets of said account and such subaccount.

(f) (1) Amounts in the municipal pension solvency account shall be available to the Treasurer to establish a loan program to provide loans to any municipality to fund such municipality's employee pension fund. Amounts in the municipal pension solvency account shall be used only: (A) To make loans to municipalities at an interest rate to be established pursuant to subdivision (2) of this subsection, provided such loans shall not exceed a term of twenty years and shall have principal and interest payments commencing not later than one year after the date of issuance of the loan, (B) for the payment of costs for administration and management of the municipal pension solvency account, (C) to be invested and earn interest on moneys in said account, (D) provided such amounts are not required for the purposes of said account, to pay debt service on bonds of the state issued to fund the municipal pension solvency account, or for the purchase or redemption of such bonds, and (E) for any other purpose of the municipal pension solvency account and the loan program.

(2) The interest rate on each municipal pension solvency loan shall be the same as the interest rate paid by the state on the bonds, notes or obligations issued by the state to finance such loan. Notwithstanding this interest rate provision, the payment due under the municipal pension solvency account agreement may include amounts determined by the Treasurer to include the funding of issuance costs, required reserves, carrying costs of reserves, interest penalties for late payments and other administrative costs associated with the loan and the loan program.

(g) (1) The secretary and the Treasurer shall maintain a priority list of eligible municipalities and shall establish a ranking system for making municipal pension solvency loans to municipalities. In establishing such priority list and ranking system, the secretary and the Treasurer shall consider all factors said secretary and Treasurer deem relevant, including, but not limited to, the following:

(A) The amount of a municipality's unfunded pension liability;

(B) A municipality's ability to eliminate, or substantially eliminate, its unfunded pension liability by taking a municipal pension solvency loan under the loan program;

(C) The state's interest in assisting the maximum number of communities with the funds available under the loan program; and

(D) The financial management factors that caused the municipality's unfunded pension liability and the likelihood such practices will continue in the future.

(2) Municipal pension solvency loans shall be made pursuant to a municipal pension solvency account agreement between the state, acting by and through the Treasurer, and the municipality seeking such loan. A municipal pension solvency account agreement shall be in a form prescribed by the Treasurer and the secretary and shall contain penalty provisions for municipalities that fail to repay the loan in a timely manner or make contributions to their pension funds as required under such agreement. The agreement may include, but is not limited to, the requirement for a general obligation pledge from the municipality, a tax revenue intercept of the municipality, the required funding of reserve funds or any such other credit enhancement deemed necessary by the Treasurer and the secretary. Such agreement shall also include provisions for repayment of the costs associated with administering the loan program and the loan.

(3) Any municipality may apply to the state for a municipal pension solvency loan to fund all or a portion of an unfunded past benefit obligation, as determined by an actuarial valuation, and the payment of costs related to the issuance of such bonds in accordance with the following requirements:

(A) The municipality shall, within the time and in the manner prescribed by regulations adopted by the Treasurer and the secretary, or as otherwise required by the Treasurer and the secretary, include with such application (i) the actuarial valuation, (ii) an actuarial analysis of the method by which the municipality proposes to fund any unfunded past benefit obligation not to be defrayed by the municipal pension solvency loan, (iii) an explanation of the municipality's investment strategic plan for the pension fund, including, but not limited to, an asset allocation plan, (iv) a three-year financial plan, including the major assumptions and plan of finance for such municipal pension solvency loan, (v) a comparison of the anticipated effects of funding the unfunded past benefit obligation with the municipal pension solvency loan with the funding of the obligation through the annual actuarially recommended contribution, prepared in the manner prescribed by the secretary, and in accordance with subparagraph (D) of this subdivision, (vi) documentation of the municipality's authorization to apply for a municipal pension solvency loan, including a certified copy of the resolution or ordinance of the municipality authorizing the application for a municipal pension solvency loan, (vii) documentation that the municipality has adopted an ordinance, or with respect to a municipality not having the authority to make ordinances, has adopted a resolution by a two-thirds vote of the members of its legislative body, requiring the municipality to appropriate funds in an amount sufficient to meet the actuarially recommended contribution and contribute such amounts to the plan as required in subdivision (3) of subsection (c) of this section, (viii) the methodology used and actuarial assumptions that will be utilized to calculate the actuarially recommended contribution, and (ix) such other information and documentation as required by the secretary or the Treasurer to carry out the provisions of this section. The secretary and the Treasurer may hire an independent actuary or such other professionals required to review the information submitted by the municipality.

(B) As long as the municipal pension solvency loan is outstanding, the municipality shall, for each fiscal year of the municipality, commencing with the fiscal year in which the loan is made, appropriate funds in an amount sufficient to meet the actuarially recommended contribution and contribute such amount to the plan, and notify the secretary annually, who shall subsequently notify the Treasurer, of the amount or the rate of any such actuarially recommended contribution and the amount or the rate, if any, of the actual annual contribution by the municipality to the pension fund to meet such actuarially recommended contribution. The municipality shall provide the secretary and the Treasurer annually with: (i) The actuarial valuation of the pension fund, (ii) a specific identification, in a format to be determined by the secretary, of any changes that have been made in the actuarial assumptions or methods compared to the previous actuarial valuation of the pension fund, (iii) the footnote disclosure and required supplementary information disclosure required by GASB Statement Number 27 with respect to the pension fund, and (iv) a review of the investments of the pension fund including a statement of the current asset allocation and an analysis of performance by asset class. In any fiscal year for which such municipality fails to appropriate sufficient funds to meet the actuarially recommended contribution in accordance with the provisions of this subdivision, an amount sufficient to meet such requirement shall be deemed appropriated, notwithstanding the provisions of any other general statute or of any special act, charter, special act charter, home-rule ordinance, local ordinance or local law.

(C) Proceeds of the municipal pension solvency loan, to the extent not applied to the payment of costs related to the issuance of such loan, shall be deposited in the pension fund of the municipality to fund the unfunded past benefit obligation for which the loan was issued and may be invested in accordance with the terms of said pension fund.

(D) The amortization schedule used to determine the actuarially recommended contribution shall be fixed and shall have a term not to exceed the longer of (i) ten years, or (ii) twenty years from the date of issuance of the municipal pension solvency loan. If the funding ratio of the pension fund, as determined immediately succeeding the deposit of the proceeds of the loan into such pension fund, is reduced by thirty per cent or more, the maximum permitted term of such amortization schedule shall be reduced by the same percentage.

Sec. 4. (NEW) (*Effective July 1, 2007*) (a) For the purposes of this section and section 3 of this act, the State Bond Commission shall have the power, from time to time, to authorize the issuance of bonds, bond anticipation notes or other obligations of the state in one or more series and on such other terms and conditions as the Treasurer shall determine to be in the best interests of the state.

(b) The proceeds of the sale of any bonds, state bond anticipation notes or other obligations issued pursuant to sections 2 to 4, inclusive, of this act shall be deposited in the municipal pension solvency account established in section 3 of this act.

(c) All provisions of section 3-20 of the general statutes, or the exercise of any right or power granted thereby which are not inconsistent with the provisions of this section and section 3 of this act are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to said sections, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 of the general statutes and from time to time renewed. None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization, which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to this section and section 3 of this act may be general obligations of the state and in such case the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the Treasurer shall pay such principal and interest as the same become due. Such general obligation bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such general obligation bonds.

(d) Notwithstanding the provisions of subsection (c) of this section, nothing in this section shall preclude the State Bond Commission from authorizing the issuance of revenue bonds that are not general obligations of the state of Connecticut to which the full faith and credit of the state of Connecticut are pledged for the payment of the principal and interest. Such revenue bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such revenue bonds. The revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes authorized to be issued under this section and section 3 of this act shall be special obligations of the state and shall not be payable from nor charged upon any funds other than the revenues or other receipts, funds or moneys pledged therefor as provided in this section and section 3 of this act, including the repayment of municipal loan obligations; nor shall the state or any political subdivision thereof be subject to any liability thereon except to the extent of such pledged revenues or the receipts, funds or moneys pledged therefor as provided in this section and said section 3. The issuance of revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes under the provisions of this section and said section 3 shall not directly or indirectly or contingently obligate the state or any political subdivision of the state to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. The revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state or of any political subdivision of the state, except the property mortgaged or otherwise encumbered under the provisions and for the purposes of this section and section 3 of this act. The substance of such limitation shall be plainly stated on the face of each revenue bond, revenue state bond anticipation note and revenue state grant anticipation note issued pursuant to this section and said section 3 shall not be subject to any statutory limitation on the indebtedness of the state and such revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes, when issued, shall not be included in computing the aggregate indebtedness of the state in respect to and to the extent of any such limitation. As part of the contract of the state with the owners of such revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes, all amounts necessary for the punctual payment of the debt service requirements with respect to such revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes shall be deemed appropriated, but only from the sources pledged pursuant to this section and said section 3. The proceeds of such revenue bonds or notes may be deposited in the municipal pension solvency account for use in accordance with the permitted uses of said account. Any expense incurred in connection with the carrying out of the provisions of this section, including the costs of issuance of revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes may be paid from the accrued interest and premiums or from any other proceeds of the sale of such revenue bonds, revenue state bond anticipation notes or revenue state grant anticipation notes and in the same manner as other obligations of the state. All provisions of subsections (g), (k), (l), (s) and (u) of section 3-20 of the general statutes or the exercise of any right or power granted thereby which are not inconsistent with the provisions of this section and said section 3, are hereby adopted and shall apply to all revenue bonds, state revenue bond anticipation notes and state revenue grant anticipation notes authorized by the State Bond Commission pursuant to this section and said section 3. For the purposes of subsection (o) of section 3-20 of the general statutes, "bond act" shall be construed to include this section and said section 3.

(e) Any pledge made by the state pursuant to this section and section 3 of this act is a statutory pledge and shall be valid and binding from the time when the pledge is made, and any revenues or other receipts, funds or moneys so pledged and thereafter received by the state shall be subject immediately to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the state, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(f) Bonds, state bond anticipation notes and state grant anticipation notes issued pursuant to this section and section 3 of this act are hereby made securities in which public officers and public bodies of the state and its political subdivisions, all insurance companies, credit unions, building and loan associations, investment companies, banking associations, trust companies, executors, administrators, trustees and other fiduciaries and pension, profit-sharing and retirement funds may properly and legally invest funds, including capital in their control or belonging to them. Such bonds, state bond anticipation notes and state grant anticipation notes are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds, state bond anticipation notes, state grant anticipation notes or other obligations of the state is now or may hereafter be authorized by law.

(g) The proceedings under which bonds are authorized to be issued may, subject to the provisions of the general statutes, contain any or all of the following: (1) Provisions respecting custody of the proceeds from the sale of the bonds and any bond anticipation notes, including any requirements that such proceeds be held separate from or not be commingled with other funds of the state; (2) provisions for the investment and reinvestment of bond proceeds utilized to pay project costs and for the disposition of any excess bond proceeds or investment earnings thereon; (3) provisions for the execution of reimbursement agreements or similar agreements in connection with credit facilities, including, but not limited to, letters of credit or policies of bond insurance, remarketing agreements and agreements for the purpose of moderating interest rate fluctuations, and of such other agreements entered into pursuant to section 3-20a of the general statutes, as amended by this act; (4) provisions for the collection, custody, investment, reinvestment and use of the pledged revenues or other receipts, funds or moneys pledged therefor as provided in this section and section 3 of this act; (5) provisions regarding the establishment and maintenance of reserves, sinking funds and any other funds and accounts as shall be approved by the State Bond Commission in such amounts as may be established by the State Bond Commission, and the regulation and disposition thereof, or the establishment of a reserve fund of the state into which may be deposited any moneys appropriated and made available by the state for such fund, any proceeds of the sale of bonds or notes, to the extent provided in the resolution of the state authorizing the issuance thereof, and any other moneys which may be made available to the state for the purpose of such fund from any source whatever; (6) covenants for the establishment of pledged revenue coverage requirements for the bonds and state bond anticipation notes; (7) provisions for the issuance of additional bonds on a parity with bonds theretofore issued, including establishment of coverage requirements with respect thereto as provided in this section; (8) provisions regarding the rights and remedies available in case of a default to bondowners, noteowners or any trustee under any contract, loan agreement, document, instrument or trust indenture, including the right to appoint a trustee to represent their interests upon occurrence of an event of default, as defined in said proceedings, provided that if any bonds or state bond anticipation notes shall be secured by a trust indenture, the respective owners of such bonds or notes shall have no authority except as set forth in such trust indenture to appoint a separate trustee to represent them; (9) provisions for the payment of rebate amounts; and (10) provisions or covenants of like or different character from the foregoing which are consistent with sections 2 to 4, inclusive, of this act and which the State Bond Commission determines in such proceedings are necessary, convenient or desirable in order to better secure the bonds or state bond anticipation notes, or will tend to make the bonds or state bond anticipation notes more marketable, and which are in the best interests of the state. Any provision which may be included in proceedings authorizing the issuance of bonds hereunder may be included in an indenture of trust duly approved in accordance with this section and section 3 of this act which secures the bonds and any notes issued in anticipation thereof, and in such case the provisions of such indenture shall be deemed to be a part of such proceedings as though they were expressly included therein.

(h) Whether or not any bonds, state bond anticipation notes or state grant anticipation notes issued pursuant to this section and section 3 of this act are of such form and character as to be negotiable instruments under the terms of title 42a of the general statutes, such bonds, state bond anticipation notes and state grant anticipation notes are hereby made negotiable instruments within the meaning of and for all purposes of title 42a of the general statutes, subject only to the provisions of such bonds, state bond anticipation notes and state grant anticipation notes for registration.

(i) Pending the use and application of any bond proceeds, such proceeds may be invested by, or at the direction of the Treasurer, in obligations listed in section 3-20 of the general statutes or in investment agreements rated within the top rating categories of any nationally recognized rating service or in investment agreements secured by obligations, of or guaranteed by, the United States or agencies or instrumentalities of the United States.

(j) Any revenue bonds issued under the provisions of this section and section 3 of this act and at any time outstanding may, at any time and from time to time, be refunded by the state by the issuance of its revenue refunding bonds in such amounts as the State Bond Commission may deem necessary, but not to exceed an amount sufficient to refund the principal of the revenue bonds to be so refunded, to pay any unpaid interest thereon and any premiums and commissions necessary to be paid in connection therewith and to pay costs and expenses which the Treasurer may deem necessary or advantageous in connection with the authorization, sale and issuance of refunding bonds. Any such refunding may be effected whether the revenue bonds to be refunded shall have matured or shall thereafter mature. All revenue refunding bonds issued under this section shall be payable solely from the revenues or other receipts, funds or moneys out of which the revenue bonds to be refunded thereby are payable and shall be subject to and may be secured in accordance with the provisions of this section.

(k) The Treasurer shall have power, out of any funds available therefor, to purchase revenue bonds, state revenue bond anticipation notes and state revenue grant anticipation notes of the state issued pursuant to this section and section 3 of this act. The Treasurer may hold, pledge, cancel or resell such bonds or notes, subject to and in accordance with agreements with bondholders or noteholders, as applicable.

Sec. 5. (NEW) (*Effective July 1, 2007*) The Treasurer shall, in consultation with the Secretary of the Office of Policy and Management, adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to carry out the purposes of sections 3 and 4 of this act, which may include, but not be limited to, the administrative process for the servicing of loans."

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2007*	3-20a(a)
Sec. 2	*July 1, 2007*	New section
Sec. 3	*July 1, 2007*	New section
Sec. 4	*July 1, 2007*	New section
Sec. 5	*July 1, 2007*	New section