



Testimony of Denise L. Nappier
Treasurer of the State of Connecticut

SUBMITTED TO THE GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE
MARCH 8, 2010

Senator Slossberg, Representative Spallone, and members of the Government Administration and Elections Committee, thank you for the opportunity to offer testimony regarding **Raised Bill No. 5403, *An Act Concerning Revisions to the Code of Ethics***. The raised bill before you would amend a number of provisions of the Ethics Code, and I respectfully submit for this Committee's consideration additional language that ought to be included as well.

We recommend revisions to Section 1-84(n) of the general statutes in order to forestall the potentially far-reaching negative impact of an advisory opinion issued by the Office of State Ethics that could impair the Treasurer's ability to fulfill her contractual obligations involving billions of dollars of the State's assets.

By way of background, the Office of State Ethics issued an advisory opinion in 2008 in which it concluded that where an individual who makes a lawful contribution to a campaign for state treasurer, and that person later becomes a principal of an investment services firm that does business with the state treasurer or marries a principal of such a firm, then the contribution made before becoming a principal would disqualify the firm from doing business with the Office of the Treasurer during the term of office for which the contribution was made. Simply put, the opinion effectively creates a retroactive application of a lawful campaign contribution, potentially damaging existing business relationships for the Office of the Treasurer by placing the Treasurer in the position of having to cancel valuable agreements or, worse, default on obligations to pay fees or contribute capital.

To more fully illustrate the magnitude of this problem take, for example, a person who contributes \$100 to the campaign of a treasurer. If that person later goes to work as a principal of an investment services firm, gets promoted to a principal position of an investment services firm, or even marries a principal of an investment services firm, then the Ethics' advisory opinion concludes that the Treasurer's ability to fulfill the obligations under existing contracts would be jeopardized -- even if a contract or long-term investment predates the contribution -- because the contribution made before that person became a principal would be attributed to the firm that the individual contributor later joined.

In issuing its opinion, the Citizens' Ethics Advisory Board recognized the risk of loss to the pension funds and also issued an order effectively grandfathering contributions made prior to its opinion, but stated that should the Office of the Treasurer find itself unable to enforce the new interpretation contractually, the General Assembly would need to offer further clarification. Furthermore, staff of the Office of State Ethics recognizes the awkward application of this retroactive sanction associated with a contribution that was legal at the time it was made. As such, we have worked together with them to fashion a legislative solution which would, we believe, accomplish three things:

- (1) Makes clear that a disqualifying contribution is made while a person is a principal of an investment services firm;

- (2) Includes language that codifies our existing administrative practice of requiring disclosure, under penalty of false statement, of any contributions made by its principals; and
- (3) Requires disclosure by individual contributors who later become principals directly to the Office of State Ethics of any contributions made.

Thank you for the opportunity to suggest these additional refinements to the Ethics Code. I urge your favorable consideration of this bill.

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**General Statutes § 1-84 (n):**

*(Effective upon passage)* (n) (1) As used in this subsection, (A) "investment services" means investment legal services, investment banking services, investment advisory services, underwriting services, financial advisory services or brokerage firm services, and (B) "principal of an investment services firm" means (i) an individual who is a director of or has an ownership interest in an investment services firm, except for an individual who owns less than five per cent of the shares of an investment services firm which is a publicly traded corporation, (ii) an individual who is employed by an investment services firm as president, treasurer, or executive or senior vice president, (iii) an employee of such an investment services firm who has managerial or discretionary responsibilities with respect to any investment services, (iv) the spouse or dependent child of an individual described in this subparagraph, or (v) a political committee established by or on behalf of an individual described in this subparagraph.

(2) The State Treasurer shall not pay any compensation, expenses or fees or issue any contract to any firm which provides investment services when (A) a political committee, as defined in section 9-601, established by such firm, or (B) a person who, while a principal of the investment services firm, has made a contribution, as defined in section 9-601a, to, or solicited contributions on behalf of, any exploratory committee or candidate committee, as defined in section 9-601, established by the State Treasurer as a candidate for nomination or election to the office of State Treasurer. The State Treasurer shall not pay any compensation, expenses or fees or issue any contract to such firms or principals during the term of office as State Treasurer, including, for an incumbent State Treasurer seeking reelection, any remainder of the current term of office. The State Treasurer shall not enter into any contract with an investment services firm unless the State Treasurer has received from such firm written disclosure, signed under penalty of false statement, of any such contributions made or solicited by any of its principals or by a political committee established by such firm at any time during the current or preceding election cycle.

(3) Any person who makes or solicits contributions, a described in subdivision (2) of this subsection, and subsequently becomes a principal of an investment services firm that has been awarded a contract by the State Treasurer shall, on a form prescribed by the board, signed under penalty of false statement, disclose such contributions or solicitations to the Office of State Ethics within thirty days after

such investment services firm receives such contract or, in the case of an existing contract, within ninety days of becoming a principal.