

BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC FINANCES; AUTHORIZING THE STATE INVESTMENT
COUNCIL TO CONTRACT FOR LEGAL SERVICES ON A CONTINGENT FEE
BASIS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 6-8-7 NMSA 1978 (being Laws 1957,
Chapter 179, Section 7, as amended) is amended to read:
"6-8-7. POWERS AND DUTIES OF THE STATE INVESTMENT COUNCIL
AND STATE INVESTMENT OFFICER--INVESTMENT POLICY--INVESTMENT
MANAGERS.--

A. Subject to the limitations, conditions and
restrictions contained in policymaking regulations or
resolutions adopted by the council, the council may make
purchases, sales, exchanges, investments and reinvestments of
the assets of all funds in accordance with the Uniform Prudent

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1 Investor Act. The state investment officer and the council are
2 trustees of all funds under their control and shall see that
3 money invested is at all times handled in the best interests of
4 the state. The council may delegate administrative functions
5 to the state investment officer.

6 B. The state investment officer shall formulate and
7 recommend to the council for approval investment regulations or
8 resolutions pertaining to the kind or nature of investments and
9 limitations, conditions and restrictions upon the methods,
10 practices or procedures for investment, reinvestment, purchase,
11 sale or exchange transactions that should govern the activities
12 of the investment office.

13 C. The council shall meet at least once each month,
14 and as often as exigencies may demand, to consult with the
15 state investment officer concerning the work of the investment
16 office. The council shall have access to all files and records
17 of the investment office and shall require the state investment
18 officer to report on and provide information necessary to the
19 performance of council functions. The council may hire one or
20 more investment management firms to advise the council with
21 respect to the council's overall investment plan for the
22 investment of all funds managed by the investment office and
23 pay reasonable compensation for such advisory services from the
24 assets of the applicable funds, subject to budgeting and
25 appropriation by the legislature. The terms of any such

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1 investment management services contract shall incorporate the
2 statutory requirements for investment of funds under the
3 council's jurisdiction.

4 D. The council shall provide an opportunity for
5 public comment at meetings of the council. Advance notice of
6 meetings shall be published on the council's web site and in a
7 newspaper of general circulation at least ten days in advance
8 of the meeting.

9 E. All funds managed by the state investment
10 officer shall be managed in accordance with the Uniform Prudent
11 Investor Act. The council may employ investment management
12 services to invest the funds and may pay reasonable
13 compensation for investment management services from the assets
14 of the applicable funds, subject to budgeting and appropriation
15 by the legislature.

16 F. The council, the state investment officer, any
17 person providing investment advice to the council or state
18 investment officer for a fee or other compensation and all
19 persons exercising discretionary authority or control of funds
20 under the management of the council are fiduciaries.

21 G. The council may contract for legal services on a
22 contingent fee basis, subject to a request for proposals
23 process approved by the council.

24 [G.] H. The council may select and contract for the
25 services of one or more custodian banks for all funds under the

1 council's management. For the purpose of this subsection,
2 "custodian bank" means a financial institution with the general
3 fiduciary duties to manage, control and collect the assets of
4 an investment fund, including receiving all deposits and paying
5 all disbursements as directed by staff, safekeeping of assets,
6 coordination of asset transfers, timely settlement of
7 securities transactions and accurate and timely reporting of
8 the assets by individual account and in total.

9 ~~[H.]~~ I. For funds available for investment for more
10 than one year, the council may contract with any state agency
11 to provide investment advisory or investment management
12 services, separately or through a pooled investment fund,
13 provided the state agency enters into a joint powers agreement
14 with the council and that state agency pays at least the direct
15 cost of such services. Notwithstanding any statutory provision
16 governing state agency investments, the council may invest
17 funds available from a state agency pursuant to a joint powers
18 agreement in any type of investment permitted for the land
19 grant permanent funds under the prudent investor rule. In
20 performing investment services for a state agency, the council
21 and the state investment officer are exempt from the New Mexico
22 Uniform Securities Act. As used in this subsection, "state
23 agency" means any branch, agency, department, board,
24 instrumentality, institution or political subdivision of the
25 state, the New Mexico finance authority, the New Mexico

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1 mortgage finance authority and any tax-exempt private endowment
2 entity whose sole beneficiary is a state agency.

3 ~~[I.]~~ J. The state investment officer shall provide
4 quarterly performance reports to the legislative finance
5 committee. Annually, the state investment officer shall ratify
6 and provide written investment policies, including any
7 amendments, to the legislative finance committee."

8 SECTION 2. EMERGENCY.--It is necessary for the public
9 peace, health and safety that this act take effect immediately.

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