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HOUSE BILL 876

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO PUBLIC MONEY; REQUIRING INFORMATION CONCERNING
THIRD-PARTY MARKETERS TO BE DISCLOSED BEFORE MAKING CERTAIN
INVESTMENTS.

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

Section 1. A new section of Chapter 6, Article 8 NMSA
1978 is enacted to read:

"[NEW MATERIAL] DISCLOSURE OF THIRD-PARTY MARKETERS--
PENALTY.--

A. Neither the state investment council nor the
state investment officer shall make any investment, other than
investments in publicly traded equities or publicly traded
fixed-income securities, unless the recipient of the investment
discloses the identity of any third-party marketer who rendered
services on behalf of the recipient in obtaining the investment

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1 and also discloses the amount of any fee, commission or
2 retainer paid to the third-party marketer for the services
3 rendered.

4 B. Information disclosed pursuant to Subsection A
5 of this section shall be included in the monthly reports of the
6 state investment officer and the annual reports of the state
7 investment council.

8 C. Any person who fails to disclose information or
9 knowingly withholds information required by Subsection A of
10 this section is guilty of a fourth degree felony and shall be
11 punished by a fine of not more than twenty thousand dollars
12 (\$20,000) or by imprisonment for a definite term not to exceed
13 eighteen months or both.

14 D. As used in this section, "third-party marketer"
15 means a person who, on behalf of an investment fund manager or
16 other person seeking an investment of public money,
17 communicates with the state investment council, the state
18 investment officer or an agent or employee of the state
19 investment council or state investment officer and who, under a
20 written or implied agreement, receives a fee, commission or
21 retainer for such services from the person seeking an
22 investment of public money."

23 Section 2. A new section of the Public Employees
24 Retirement Act is enacted to read:

25 "[NEW MATERIAL] DISCLOSURE OF THIRD-PARTY MARKETERS--

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[bracketed material] = delete

1 PENALTY.--

2 A. The retirement board shall not make any
3 investment, other than investments in publicly traded equities
4 or publicly traded fixed-income securities, unless the
5 recipient of the investment discloses the identity of any
6 third-party marketer who rendered services on behalf of the
7 recipient in obtaining the investment and also discloses the
8 amount of any fee, commission or retainer paid to the third-
9 party marketer for the services rendered.

10 B. Information disclosed pursuant to Subsection A
11 of this section shall be included in the quarterly performance
12 reports of the retirement board.

13 C. Any person who fails to disclose information or
14 knowingly withholds information required by Subsection A of
15 this section is guilty of a fourth degree felony and shall be
16 punished by a fine of not more than twenty thousand dollars
17 (\$20,000) or by imprisonment for a definite term not to exceed
18 eighteen months or both.

19 D. As used in this section, "third-party marketer"
20 means a person who, on behalf of an investment fund manager or
21 other person seeking an investment from the fund, communicates
22 with the retirement board, a member of the retirement board or
23 an agent or employee of the retirement board and who, under a
24 written or implied agreement, receives a fee, commission or
25 retainer for such services from the person seeking an

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1 investment from the fund."

2 Section 3. A new section of the Educational Retirement
3 Act is enacted to read:

4 "[NEW MATERIAL] DISCLOSURE OF THIRD-PARTY MARKETERS--
5 PENALTY.--

6 A. The board shall not make any investment, other
7 than investments in publicly traded equities or publicly traded
8 fixed-income securities, unless the recipient of the investment
9 discloses the identity of any third-party marketer who rendered
10 services on behalf of the recipient in obtaining the investment
11 and also discloses the amount of any fee, commission or
12 retainer paid to the third-party marketer for the services
13 rendered.

14 B. Information disclosed pursuant to Subsection A
15 of this section shall be included in the quarterly performance
16 reports of the board.

17 C. Any person who fails to disclose information or
18 knowingly withholds information required by Subsection A of
19 this section is guilty of a fourth degree felony and shall be
20 punished by a fine of not more than twenty thousand dollars
21 (\$20,000) or by imprisonment for a definite term not to exceed
22 eighteen months or both.

23 D. As used in this section, "third-party marketer"
24 means a person who, on behalf of an investment fund manager or
25 other person seeking an investment from the fund, communicates

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1 with the board, a member of the board or an agent or employee
2 of the board and who, under a written or implied agreement,
3 receives a fee, commission or retainer for such services from
4 the person seeking an investment from the fund."

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