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FISCAL IMPACT REPORT

SPONSOR	SRC	ORIGINAL DATE	02/09/11	HB	
		LAST UPDATED	02/24/11		CS/17 & 64/
SHORT TITLE	State Investment Council Membership	SB			aSRC/aSFL#1/aSFL#2
		ANALYST			Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 25 and SB 82

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

State Investment Office (SIO)

SUMMARY

Synopsis of Senate Floor Amendment #2

The Senate Floor amendment #2 to Senate Rules Committee substitute for Senate Bills 17 and 64 changes the word "though" to "through" to correctly identify the referenced range of subsections.

Synopsis of Senate Floor Amendment #1

The Senate Floor amendment #1 to Senate Rules Committee substitute for Senate Bills 17 and 64 would postpone the effective date of sections 1, 2 and 7 of the bill to January 1, 2013. Sections 1 and 2 change the composition of the council including the removal of the Governor. Section 7 sets the date for the appointment of a new Chief Financial Officer and the terms of other officer. Sections 3 through 6 would go into effect (if the bill is signed) 90 days after the end of the legislative session.

Synopsis of SRC Amendment

The Senate Rules Committee amendment to Senate Rules Committee substitute for Senate Bills 17 and 64 would change the length of service of the State Investment Officer. The original bill

proposed an initial term of two years with subsequent terms of four years, with removal by the council only for cause. This amendment would simplify the length of service by having the State Investment Officer serve at the pleasure of the council.

Synopsis of Original Bill

The Senate Rules Committee Substitute for Senate Bills 17 and 64 proposes to amend Section 6-8-2 NMSA 1978 by changing the composition of the State Investment Council (SIC), requiring the advice and consent of the senate for the appointment of the State Investment Officer, and the length of service for council members.

The council would be composed of the following ex-officio and appointed positions.

- the State Treasurer
- the Commissioner of Public Lands
- the Secretary of the Department of Finance and Administration
- one public member appointed by the president pro tempore of the senate with the advise and consent of the senate
- one public member appointed by the minority floor leader of the senate with the advise and consent of the senate
- one public member appointed by the speaker of the house of representatives with the advise and consent of the senate
- one public member appointed by the minority leader of the house of representatives with the advise and consent of the senate
- three members appointed by the governor with the advise and consent of the senate

Of the appointed members, no more than two may be from the same political party.

The bill would remove the governor and the “chief financial officer of a state institution of higher education appointed by the governor with the advice and consent of the senate” as members of the council.

The chair and vice chair of the council would be selected by the appointed members. The chair and vice chair would serve staggered terms, and no more than two consecutive terms. The vice chair elected in 2011 would serve a one-year term to allow staggered terms.

The bill would amend Section 6-8-3 NMSA 1978 for compliance with the new composition of the council.

Section 6-8-4 NMSA 1978 would be amended to specify that the appointment of the State Investment Officer (SIO) by the council is subject to the advice and consent of the senate. The statutory minimum salary (\$50,000) of the State Investment Officer is deleted.

Section 6-8-7 NMSA 1978 would be amended to clarify that the council may delegate investment related functions to the SIO. The council, rather than the SIO would be explicitly charged to manage all funds in accordance with the Uniform Prudent Investor Act. In addition to any other investment advisors, investment office staff are designated as fiduciaries. Investment office staff are also exempted from the New Mexico Uniform Securities Act. Instead of the SIO, the council would be responsible for providing written investment policies annually to the legislature.

Section 6-8-14 NMSA 1978, which addresses monthly reporting requirements, would delete investment bankers and brokers from the monthly reports' mailing list, and limits publication on the web to the council's web site.

Section 6-8-20 NMSA 1978 (covering the Private Equity Investment Advisory Committee) would be amended to specify that the committee establish policies to include New Mexico film (changed from "film private equity fund") investments. The policies would be available to all interested parties.

The bill contains an emergency clause.

FISCAL IMPLICATIONS

SB17 makes no appropriations.

SIGNIFICANT ISSUES

The New Mexico Legislative Council Service (LCS) and the State Board of Finance retained Ennis, Knupp & Associates, Inc. (EnnisKnupp) to conduct an independent operational and fiduciary review of the governance, organizational structure, and current policies, procedures, and practices of the New Mexico State Investment Office (NMSIO), which includes the State Investment Council (SIC or the Council) and the State Investment Office (Investment Office or the Office). Their report, Fiduciary Review of the State Investment Council dated February 28, 2010 included findings and best practice recommendations, and supplemental information including a position description for the state investment officer.

The report discusses the current composition of the SIC with regard to the influence of the governor and the need for energetic leadership by the chair of the council. The report states, "Best practice is to allow the Council to elect its own officers, including a Chair and Vice-Chair. Currently, the SIC does not have a Vice-Chair, but one is needed to run the meetings when the Chair is absent. We find that groups generally function more effectively if a leader is determined based upon the group's confidence in that individual's leadership abilities and ability to commit extra time." Senate Rules Committee Substitute for Senate Bills 17 and 64 would affirm this best practice.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB25 (Private Equity Investment Committee Duties) and SB82 (Remove State Investment Officer from Boards) are related to this bill.

OTHER SUBSTANTIVE ISSUES

The State Investment Office provided the following comments.

The Council, which was reconstituted to have greater legislative participation and balance under legislation passed last year, is charged with fiduciary oversight of the nearly \$15 billion Permanent Funds managed by the SIC, and it appoints a state investment officer to execute the Council's investment policy and day to day investment and administrative activities.

Last year's legislative action has brought significant changes to the State Investment Office and the Council itself, and while there are still reforms that must still be accomplished, the new State Investment Officer and a highly engaged Council are making notable progress on several fronts. The most significant step in last year's legislation was removing the State Investment Officer from the Council, and removing the very high degree of investment discretion that the investment officer controlled. Now, contracts, advisors and major investment decisions must be made by the Council as a whole, whereas before there was in reality a single person making many significant investment decisions.

JCH/mew:svb