

CHAPTER 56

GOVERNMENT - STATE

HOUSE BILL 03-1204

BY REPRESENTATIVE(S) Stengel, Coleman, Frangas, Paccione, Romanoff, Veiga, and Weissmann;
also SENATOR(S) Jones, Hagedorn, and Sandoval.

AN ACT

CONCERNING DISCLOSURE BY AN INVESTMENT FIRM TO FIDUCIARIES OF PUBLIC MONEYS REGARDING ANY BUSINESS AGREEMENT THAT MAY CREATE A CONFLICT OF INTEREST FOR THE INVESTMENT FIRM.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-51-206 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-51-206. Investments. (3) Investments may also be made in either common or preferred stock with the following limitations:

(c) (I) EACH INVESTMENT FIRM OFFERING FOR SALE TO THE BOARD CORPORATE STOCKS, BONDS, NOTES, DEBENTURES, OR A MUTUAL FUND THAT CONTAINS CORPORATE SECURITIES, SHALL DISCLOSE, IN ANY RESEARCH OR OTHER DISCLOSURE DOCUMENTS PROVIDED IN SUPPORT OF THE SECURITIES BEING OFFERED, TO THE BOARD WHETHER THE INVESTMENT FIRM HAS AN AGREEMENT WITH A FOR-PROFIT CORPORATION THAT IS NOT A GOVERNMENT-SPONSORED ENTERPRISE, WHOSE SECURITIES ARE BEING OFFERED FOR SALE TO THE BOARD AND BECAUSE OF SUCH AGREEMENT THE INVESTMENT FIRM:

(A) HAD RECEIVED COMPENSATION FOR INVESTMENT BANKING SERVICES WITHIN THE MOST RECENT TWELVE MONTHS; OR

(B) MAY RECEIVE COMPENSATION FOR INVESTMENT BANKING SERVICES WITHIN THE NEXT THREE CONSECUTIVE MONTHS.

(II) FOR THE PURPOSES OF THIS PARAGRAPH (c), "INVESTMENT FIRM" MEANS A BANK, BROKERAGE FIRM, OR OTHER FINANCIAL SERVICES FIRM CONDUCTING BUSINESS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

WITHIN THIS STATE, OR ANY AGENT THEREOF.

SECTION 2. 24-36-113 (1), Colorado Revised Statutes, is amended to read:

24-36-113. Investment of state moneys - limitations. (1) (a) Whenever there are moneys in the state treasury that are not immediately required to be disbursed, the state treasurer is authorized to invest the same in United States domestic fixed income securities. In making such investments, the state treasurer shall use prudence and care to preserve the principal and to secure the maximum rate of interest consistent with safety and liquidity. The state treasurer shall formulate investment policies regarding liquidity, maturity, and diversification appropriate to each fund or pool of funds in the state treasurer's custody available for investment.

(b) (I) IF THE STATE TREASURER INVESTS STATE MONEYS THROUGH AN INVESTMENT FIRM OFFERING FOR SALE CORPORATE STOCKS, BONDS, NOTES, DEBENTURES, OR A MUTUAL FUND THAT CONTAINS CORPORATE SECURITIES, THE INVESTMENT FIRM SHALL DISCLOSE, IN ANY RESEARCH OR OTHER DISCLOSURE DOCUMENTS PROVIDED IN SUPPORT OF THE SECURITIES BEING OFFERED, TO THE STATE TREASURER WHETHER THE INVESTMENT FIRM HAS AN AGREEMENT WITH A FOR-PROFIT CORPORATION THAT IS NOT A GOVERNMENT-SPONSORED ENTERPRISE, WHOSE SECURITIES ARE BEING OFFERED FOR SALE TO THE STATE TREASURER AND BECAUSE OF SUCH AGREEMENT THE INVESTMENT FIRM:

(A) HAD RECEIVED COMPENSATION FOR INVESTMENT BANKING SERVICES WITHIN THE MOST RECENT TWELVE MONTHS; OR

(B) MAY RECEIVE COMPENSATION FOR INVESTMENT BANKING SERVICES WITHIN THE NEXT THREE CONSECUTIVE MONTHS.

(II) FOR THE PURPOSES OF THIS PARAGRAPH (b), "INVESTMENT FIRM" MEANS A BANK, BROKERAGE FIRM, OR OTHER FINANCIAL SERVICES FIRM CONDUCTING BUSINESS WITHIN THIS STATE, OR ANY AGENT THEREOF.

SECTION 3. 24-75-601.1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-601.1. Legal investments of public funds. (2.5) (a) If a PUBLIC ENTITY INVESTS PUBLIC MONEYS THROUGH AN INVESTMENT FIRM OFFERING FOR SALE CORPORATE STOCKS, BONDS, NOTES, DEBENTURES, OR A MUTUAL FUND THAT CONTAINS CORPORATE SECURITIES, THE INVESTMENT FIRM SHALL DISCLOSE, IN ANY RESEARCH OR OTHER DISCLOSURE DOCUMENTS PROVIDED IN SUPPORT OF THE SECURITIES BEING OFFERED, TO THE PUBLIC ENTITY WHETHER THE INVESTMENT FIRM HAS AN AGREEMENT WITH A FOR-PROFIT CORPORATION THAT IS NOT A GOVERNMENT-SPONSORED ENTERPRISE, WHOSE SECURITIES ARE BEING OFFERED FOR SALE TO THE PUBLIC ENTITY AND BECAUSE OF SUCH AGREEMENT THE INVESTMENT FIRM:

(A) HAD RECEIVED COMPENSATION FOR INVESTMENT BANKING SERVICES WITHIN THE MOST RECENT TWELVE MONTHS; OR

(B) MAY RECEIVE COMPENSATION FOR INVESTMENT BANKING SERVICES WITHIN

THE NEXT THREE CONSECUTIVE MONTHS.

(b) FOR THE PURPOSES OF THIS SUBSECTION (2.5), "INVESTMENT FIRM" MEANS A BANK, BROKERAGE FIRM, OR OTHER FINANCIAL SERVICES FIRM CONDUCTING BUSINESS WITHIN THIS STATE, OR ANY AGENT THEREOF.

SECTION 4. 31-31-302 (1), Colorado Revised Statutes, is amended to read:

31-31-302. Fund - management - investment. (1) (a) The board shall be the trustee of the fund and shall have full and unrestricted discretionary power and authority to invest and reinvest such portions of the fund as in its judgment may not be immediately required for the payment of refunds or benefits. In exercising its discretionary authority with respect to the management and investment of fund assets, the board shall be governed by the standard and other provisions for trustees set forth in the "Uniform Prudent Investor Act", article 1.1 of title 15, C.R.S.

(b) (I) IF THE BOARD INVESTS FUND MONEYS THROUGH AN INVESTMENT FIRM OFFERING FOR SALE CORPORATE STOCKS, BONDS, NOTES, DEBENTURES, OR A MUTUAL FUND THAT CONTAINS CORPORATE SECURITIES, THE INVESTMENT FIRM SHALL DISCLOSE, IN ANY RESEARCH OR OTHER DISCLOSURE DOCUMENTS PROVIDED IN SUPPORT OF THE SECURITIES BEING OFFERED, TO THE BOARD WHETHER THE INVESTMENT FIRM HAS AN AGREEMENT WITH A FOR-PROFIT CORPORATION THAT IS NOT A GOVERNMENT-SPONSORED ENTERPRISE, WHOSE SECURITIES ARE BEING OFFERED FOR SALE TO THE BOARD AND BECAUSE OF SUCH AGREEMENT THE INVESTMENT FIRM:

(A) HAD RECEIVED COMPENSATION FOR INVESTMENT SERVICES BANKING WITHIN THE MOST RECENT TWELVE MONTHS; OR

(B) MAY RECEIVE COMPENSATION FOR INVESTMENT BANKING SERVICES WITHIN THE NEXT THREE CONSECUTIVE MONTHS.

(II) FOR THE PURPOSES OF THIS PARAGRAPH (b), "INVESTMENT FIRM" MEANS A BANK, BROKERAGE FIRM, OR OTHER FINANCIAL SERVICES FIRM CONDUCTING BUSINESS WITHIN THIS STATE, OR ANY AGENT THEREOF.

SECTION 5. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to investments made by the state treasurer, the public employees' retirement association, the fire and police pension association, or any public entity on or after the applicable effective date of this act.

Approved: March 20, 2003