

**ASSEMBLY, No. 889**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Adjusts membership process and reports of State Investment Council;  
requires plan for economically targeted investments.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the membership and duties of the State  
2 Investment Council and amending and supplementing P.L.1950,  
3 c.270.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. Section 5 of P.L.1950, c.270 (C.52:18A-83) is amended to  
9 read as follows:

10 5. a. There is hereby established in the Division of Investment  
11 a State Investment Council which shall consist of 16 members.

12 (1) Each of the following agencies, namely, the Board of  
13 Trustees of the Public Employees' Retirement System, the Board of  
14 Trustees of the Teachers' Pension and Annuity Fund, and the Board  
15 of Trustees of the Police and Firemen's Retirement System of New  
16 Jersey, shall designate one board member elected to serve on the  
17 board, to serve as a member of the State Investment Council herein  
18 established. The three members of the council so designated shall  
19 serve as such for a period of three years from the date of their  
20 designation and until their respective successors are in like manner  
21 designated.

22 (2) **【Eight】** Five of the members of the State Investment  
23 Council shall be appointed by the Governor, with the advice and  
24 consent of the Senate, for a term of five years and shall serve until  
25 the member's successor is appointed and has qualified. Of the initial  
26 members appointed following the effective date of P.L.2011, c.78,  
27 one shall serve for an initial period of three years, and one shall  
28 serve for an initial period of two years.

29 (3) One member of the State Investment Council shall be  
30 appointed by the Governor from among three persons nominated  
31 jointly by the President of the Senate and the Speaker of the  
32 General Assembly and shall serve for a term of five years and until  
33 the member's successor is appointed and has qualified.

34 (4) **【Two】** Five members of the State Investment Council shall  
35 be appointed **【by the Governor from among six persons nominated】**  
36 by the Public Employee Committee of the New Jersey State AFL-  
37 CIO and shall serve for a term of five years and until the member's  
38 successor is appointed and has qualified. At least **【one】** two of the  
39 **【two】** five members appointed shall be a member of a union  
40 representing police officers or firefighters. **【If the persons**  
41 **nominated are not acceptable to the Governor for appointment, the**  
42 **Governor may request submission of new nominees.】**

43 (5) One member of the State Investment Council shall be  
44 appointed by the **【Governor from among three persons nominated**

**EXPLANATION – Matter enclosed in bold-faced brackets 【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 by the **】** New Jersey Education Association and shall serve for a  
2 term of three years and until the member's successor is appointed  
3 and has qualified. **【**If the persons nominated are not acceptable to  
4 the Governor for appointment, the Governor may request  
5 submission of new nominees.**】**

6 (6) One member of the State Investment Council shall be  
7 appointed **【**by the Governor from among three persons nominated**】**  
8 by the State Troopers Fraternal Association and shall serve for a  
9 term of three years and until the member's successor is appointed  
10 and has qualified. **【**If the persons nominated are not acceptable to  
11 the Governor for appointment, the Governor may request  
12 submission of new nominees.**】**

13 The **【four】** seven members appointed pursuant to paragraphs (4),  
14 (5) and (6) of this subsection **【**by the Governor**】** to the council shall  
15 be qualified by training, experience or long-term interest in the  
16 direct management, analysis, supervision or investment of assets,  
17 and this training, experience or long-term interest shall have been  
18 supplemented by academic training in the fields of economics,  
19 business, law, finance or actuarial science or by actual employment  
20 in those fields.

21 The five members appointed pursuant to paragraph (4) of this  
22 subsection shall be comprised in any combination of the following:  
23 active members of the New Jersey State AFL-CIO who are  
24 receiving full-time salaries from active employment or retired  
25 members of the New Jersey State AFL-CIO receiving pension  
26 benefits, but not members receiving both full-time salaries and  
27 pension benefits.

28 At least **【seven】** four of the **【nine】** six members appointed  
29 pursuant to paragraphs (2) and (3) of this subsection by the  
30 Governor to the council shall be qualified by training and  
31 experience in the direct management, analysis, supervision or  
32 investment of assets, which training and experience shall have been  
33 acquired through academic training or through actual employment  
34 in those fields.

35 b. No member of the State Investment Council shall hold any  
36 office, position or employment in any political party other than a  
37 county or municipal position nor shall any such member benefit  
38 directly or indirectly from any transaction made by the Director of  
39 the Division of Investment provided for herein.

40 The members of the council shall elect annually from their  
41 number **【a chairman】** two co-chairs of such council. Any member  
42 of the council so elected shall serve as such **【chairman】** co-chair for  
43 a term of one year and until a successor is, in like manner, elected.  
44 The **【chairman】** co-chairs of the council shall be its presiding  
45 **【officer】** officers, and they shall alternate leading council meetings.  
46 One co-chair shall be selected from the Governor's appointees or  
47 from one of the appointees designated from one of the retirement

1 boards in accordance with paragraph (1) of subsection a. of this  
2 section, and one co-chair shall be selected from the remaining  
3 appointees. Either co-chair may call a meeting of the council,  
4 including for a vote on any single investment recommendation,  
5 based on consent from more than one-third of the total council  
6 membership.

7 The members of the council shall serve without compensation  
8 but shall be reimbursed for necessary expenses, including  
9 reasonable and relevant educational expenses, incurred in the  
10 performance of their duties as approved by the **【chairman】** co-  
11 chairs of the council. A co-chair seeking reimbursement for a  
12 necessary expense incurred in the performance of the co-chair's  
13 duties shall obtain the approval of the other co-chair. Such  
14 approval shall not be unreasonably withheld. The members of the  
15 council shall be required to file the same annual financial disclosure  
16 statements as those required to be filed by members of other State  
17 boards and commissions who are not compensated for their  
18 services, as such statements shall be required by law or executive  
19 order of the Governor. The financial disclosure statements of  
20 council members shall be made available to the public in the same  
21 manner as the statements of members of other State boards and  
22 commissions are made available to the public.

23 Each member of the council, except the member appointed from  
24 among persons nominated by the President of the Senate and the  
25 Speaker of the General Assembly, may be removed from office by  
26 the Governor, for **【cause】** egregious conduct or for financial  
27 conflicts of interest, upon notice and opportunity to be heard at a  
28 public hearing. Any vacancy in the membership of the council  
29 occurring other than by expiration of term shall be filled in the same  
30 manner as the original appointment, but for the unexpired term  
31 only.

32 c. The terms of the members of the council serving pursuant to  
33 paragraph (1) of subsection a. of this section and serving on the  
34 effective date of P.L.2011, c.78 are terminated as of that effective  
35 date. A member terminated pursuant to this subsection shall be  
36 eligible for reappointment.

37 d. The co-chairs of the council may establish such committees  
38 as deemed necessary for the council to perform its duties. Any  
39 committee within the council shall be comprised of no more than  
40 half of the council members who were appointed by the Governor  
41 or from one of the appointees designated from one of the retirement  
42 boards in accordance with paragraph (1) of subsection a. of this  
43 section, and no more than half of the remaining appointees.  
44 (cf: P.L.2011, c.78, s.28)

45  
46 2. Section 13 of P.L.1950, c.270 (C.52:18A-91) is amended to  
47 read as follows:

1       13. a. The State Investment Council shall consult with the  
2 Director of the Division of Investment from time to time with  
3 respect to the work of the division. It shall have access to all files  
4 and records of the division and may require any officer or employee  
5 therein to provide such information as it may deem necessary in the  
6 performance of its functions. The council shall have authority to  
7 inspect and audit the respective accounts and funds administered  
8 through the Division of Investment. It shall formulate and  
9 establish, and may from time to time amend, modify or repeal, such  
10 policies as it may deem necessary or proper, which shall govern the  
11 methods, practices or procedures for investment, reinvestment,  
12 purchase, sale or exchange transactions to be followed by the  
13 Director of the Division of Investment established hereunder,  
14 except that the provisions of this subsection shall not apply to the  
15 operations account of Common Pension Fund L established  
16 pursuant to section 6 of P.L.2017, c.98 (C.5:9-22.10).  
17 Notwithstanding any provision of the "Administrative Procedure  
18 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the  
19 council may adopt, immediately upon filing with the Office of  
20 Administrative Law such policies and regulations relating to the  
21 investment account, established pursuant to section 6 of P.L.2017,  
22 c.98 (C.5:9-22.10), as are necessary to implement that section,  
23 which regulations shall be effective for a period not to exceed 12  
24 months following adoption, and may thereafter be amended,  
25 adopted, or readopted by the council in accordance with the  
26 requirements of the "Administrative Procedure Act," P.L.1968,  
27 c.410 (C.52:14B-1 et seq.).

28       b. On or before January first of each year, and at such other  
29 times as it may deem in the public interest, the council shall report  
30 to the Governor, the Legislature, and the State Treasurer with  
31 respect to its work and the work of the Division of Investment. In  
32 addition to the reports specified above and in section 14 of  
33 P.L.1950, c.270 (C.52:18A-92), the council shall issue a report by  
34 March 1 of each year on the investment activities for the prior State  
35 fiscal year, which shall include a summary of the current investment  
36 policies and strategies of the council and those in effect during the  
37 prior State fiscal year, a detailed summary for each financial  
38 product of the amount invested, performance benchmarks, and  
39 actual performance during the State fiscal year. The report shall be  
40 submitted to the Governor, the Legislature, and the State Treasurer,  
41 and shall be made available to the public through the official  
42 Internet site of the State. In addition, the council shall issue a  
43 report listing, in the aggregate and segregated by asset class, the  
44 investment returns achieved by the State-administered retirement  
45 system funds under the council's supervision by external managers  
46 and alternative investment managers, as appropriate. As part of any  
47 contract between the council and an external manager, or alternative  
48 investment manager, or both, as appropriate, for the investment of

1 State-administered retirement system funds executed after the  
2 effective date of P.L.2017, c.277, the council shall require the  
3 external manager, or alternative investment manager, or both, as  
4 appropriate, to disclose the rate and amount of fees charged by the  
5 external manager, or alternative investment manager, or both, as  
6 appropriate, including performance-based earnings and carried  
7 interest. The council shall include such rate and fees in the  
8 council's report and shall submit the report to the boards of trustees  
9 of each State-administered retirement system mentioned in the  
10 report and to the Division of Pensions and Benefits, which shall  
11 post the report on its Internet website in the same location as other  
12 reports and analyses produced by the division.

13 c. The council shall hold a meeting each year that shall be open  
14 to the public, and shall accept comments from the public at such  
15 meeting. The matters that shall be open to discussion and public  
16 comment during this annual meeting shall include the investment  
17 policies and strategies of the council, the investment activities of  
18 the council, the financial disclosure statements filed by council  
19 members, and the certification of contributions filed by external  
20 managers and alternative investment managers, as appropriate, as  
21 well as other appropriate matters concerning the operations,  
22 activities and reports of the council.

23 d. An external manager, or alternative investment manager, or  
24 both, as appropriate, shall be required to file a certification before  
25 being retained, and annually thereafter, that discloses the political  
26 contributions made, during the 12 months preceding the  
27 certification, by the manager or the manager's firm, or a political  
28 committee in which the manager or firm was active. The  
29 certification shall specify the political contributions made to  
30 candidates for elective public office in this State and any political  
31 committee established for the support of such candidates, and  
32 contributions made for the transition and inaugural expenses of any  
33 candidate who is elected to public office. As used in this  
34 subsection, "contribution" and "political committee" shall have the  
35 meaning set forth in "The New Jersey Campaign Contributions and  
36 Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et al.).  
37 This certification shall be in addition to any other such disclosure  
38 required by law or executive order of the Governor.

39 (cf: P.L.2017, c.277, s.2)

40

41 3. The terms of office of the members of a State Investment  
42 Council appointed pursuant to the provisions of section 5 of  
43 P.L.1950, c.270 (C.52:18A-83) shall terminate on the effective date  
44 of this act and those people appointed pursuant to that act shall  
45 cease to be members of the council. Notwithstanding the criteria  
46 established in section 1 of P.L. , c. (pending before the  
47 Legislature as this bill), existing members may be reappointed to  
48 the council.

c. Upon approval of the plan, the division shall prepare and submit to the State Investment Council an ESG assessment analysis to accompany each prospective investment. The analysis shall detail ESG and other risk factors of the investment in addition to risks to the managed investment portfolios. The investment policy sub-committee of the council, or its successor, shall consider the analysis prior to the council's consideration of the analysis.

5. This act shall take effect immediately.

## STATEMENT

The bill also adds the term “alternative investment managers” to be used in connection with the term “external managers” that is incorporated in current law, for the reports, contracts, and reviews of the State Investment Council because the Division of Investment

1 recognizes alternative investment funds in addition to conventional  
2 investments.

3 Finally, the bill provides for the Division of Investment, in  
4 conjunction with the State Investment Council, to develop a plan to  
5 assess and identify the environmental, social, and governance, or  
6 “ESG,” risk and exposure characteristics of managed investment  
7 portfolios. This provision is in response to the United States  
8 Department of Labor’s 2015 guidance on economically targeted  
9 investments in retirement plans covered by the Employee  
10 Retirement Income Security Act (ERISA).