

SENATE, No. 393

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator TROY SINGLETON

District 7 (Burlington)

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.

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).